

THE
MISCELLANEOUS ESSAYS
AND
OCCASIONAL WRITINGS

OF
FRANCIS HOPKINSON, Esq.

VOLUME II.

PHILADELPHIA:

PRINTED BY T. DOBSON, AT THE STONE-HOUSE, N^o 41,
SECOND STREET.
M,DCC,XCII.

MISCELLANEOUS ESSAYS

AND

OCCASIONAL WRITINGS

42

9 . 20
195

VOLUME II



PRINTED BY T. COOPER, AT THE STONE HOUSE, NO. 1, ST. MARK'S LANE, LONDON, E.C. 4.

M. COOPER, 1825.

C O N T E N T S.

V O L U M E II.

ORATIONS.	Page
<i>On a learned education,</i>	1
<i>On peace, liberty, and independence,</i>	13
<i>On duelling,</i>	24
<i>On public speaking,</i>	34
<i>On the learned languages,</i>	41
<i>In reply to the former,</i>	49
<i>In verse,</i>	58
<i>On the the new constitution,</i>	62
<i>Dialogue on the address of the philosophical society to Dr. Franklin,</i>	69
<i>On a law limiting the time of the general election to 8 o'clock,</i>	76
<i>The Pennsylvania assemblyman's vade mecum.</i>	84
<i>Observations on the bill for amending the penal laws,</i>	93
<i>On the same subject,</i>	106
<i>A suit in the high court of honour,</i>	112
<i>To the Rev. Dr. White on Church Music,</i>	119
<i>Surveying applied to portrait painting,</i>	127
<i>New sources of amusement,</i>	138
<i>On white washing,</i>	146
<i>Nitidias' answer,</i>	161
<i>The cobbler No. I.</i>	169

	Page
<i>A typographical method of conducting a quarrel,</i>	179
<i>Observations of a foreigner on the jury trials of England,</i>	194
<i>Remarks of uncommon sense on a pamphlet respecting the affairs of the bank,</i>	225
<i>Specimen of a modern law suit,</i>	247
<i>The new roof,</i>	282
<i>The new roof, a song,</i>	320
<i>An intercepted letter from the centinel,</i>	325
<i>Objections to the new constitution,</i>	329
<i>Thoughts on the diseases of the mind with a scheme for purging the moral faculties of the people of Penn- sylvania,</i>	336
<i>A full account of the grand proceßion at Philadelphia, on the 4th July 1778,</i>	349

O R A T I O N S,

**WRITTEN FOR, AND AT THE REQUEST
OF
YOUNG GENTLEMEN OF THE UNIVERSITY,
AND
DELIVERED BY THEM AT PUBLIC COMMENCEMENTS
IN THE COLLEGE HALL.**

LADIES AND GENTLEMEN,

HAVING gone through the usual course of education in this seminary of learning; having passed the ordeal trials of private and public examinations, I am now in full expectation of receiving those parchment honours, which are to testify the success of my studies, and prove, to a believing world, that my labour hath not been in vain.

BUT it has been insinuated to me, that before my temples can be crowned with collegiate laurels,

VOL. II.

A

it

it is expected that I should address you, ladies and gentlemen, in an elegant speech on this grand occasion.

UNREASONABLE as this demand seemed to be, nevertheless, being long accustomed to submit, I earnestly endeavoured to comply with it. I had recourse to books, to solitary walks, ardent invocations, and all the usual provocatives to good writing. I chose for my subject the dignity of the sciences, and the excellent mode of attaining them in this university. I began with a warm apostrophe to this building, in manner and form following:—Oh, ye sacred walls! ye venerable stools and benches! and thou, expanded arch! that hast so often echoed back the sweet effusions of those aspiring youths who have, in times past, been nurtured within your hallowed precincts—hear! oh hear! one of your latest sons testify the ardour with which he feels himself inspired!—Thus far, all was well—but what to say next was the difficulty. Whilst I was making every possible effort to proceed, an unlucky line of a distressed poet, who was composing new-year's verses, popped into my head, viz. “*What can I say, that ha’nt been said before?*”

THIS ridiculous question quenched all my enthusiasm in a moment—like a spark drawn from the
prime

prime conductor, the electrometer fell instantly, and I gave up the point.

NOTHING could be more unfortunate: I certainly proposed, ladies and gentlemen, to have made you a very fine speech, in the customary style, but my good intention having been thus unhappily frustrated, I must e'en depend upon the chance of the moment for what I shall say; and I doubt not, but that you, my benevolent hearers, will at least wish me good luck, and a happy escape from my my present difficulty.

ALTHOUGH I am under a necessity to change the intended stile of my speech, I shall not entirely abandon the subject I had chosen; but shall endeavour to give this polite audience some juvenile strictures on the present system of what is called a learned education: in doing which, I hope I may be allowed the privilege of speaking freely without giving offence. Although I shall never think myself discharged from the obligations I owe to these my kind and reverend instructors, for their care and attention to me; yet, being now emancipated from their immediate control, I shall take the liberty of giving a free scope to my sentiments, without regarding how far they may run foul of the stated opinions and prejudices of the schools.

To begin, then, the detail of our instruction.—After the youngster hath been taught to spell, read, and write, in his mother tongue, he ascends the first step of learned education.—The *Latin language* is the object, to attain which, a Latin grammar is put into the poor boy's hands. This grammar is called the rudiments or foundation of that language: by which one might suppose, that the grammar had been given by inspiration, and the Romans derived their language from it. But the fact is just the reverse; for in every language, the grammar is, and must necessarily be, the result, and not the origin of that language: but notwithstanding this undeniable truth, the Latin must be inculcated according to the method and discipline of the schools, *a posteriori*, in more senses than one.—Well! through this grammar, at all events, the bewildered pupil must wade, groping for a year or two in utter darkness, and learning by rote a complicated system of rules, the propriety or application of which it is impossible for him to see in any instance.

THESE rules are framed partly in elegant prose, and partly in much more elegant verse, in order, I suppose, to insinuate to the student some taste for Latin poetry, whilst he is learning the rudiments of the language. If I had not, ladies, a respectful

spectful regard for your ears, and no small tenderness for my own teeth, I would give you a sample of our grammar verification.

AFTER these rules have been got by rote, as I said before, it may be thought that there is nothing more necessary to the knowledge of the Latin tongue—But Alas ! this is only the beginning of troubles—The rules must not only be got by memory, but the exceptions also to those rules—Now, good people, you must know that these exceptions, are so very numerous, that, in many cases, it is immaterial which you choose for a standard, the rule itself, or the exception.

THE excellency of this method of teaching a language by means of its grammar, may be illustrated by a familiar parallel. You must know, ladies, that when a man stands, or walks, or performs any motions of the body, such positions and motions are all reducible to mathematical principles. In all cases, it is necessary that what is called the centre of gravity should be supported, were it otherwise, the person must unavoidably fall to the ground : and thus are all our movements reducible to system. Now, if the present mode of education is right, and who dares assert it is not, you should not suffer your children to walk,

or even attempt to walk, before they have learned these rules, for which purpose you must necessarily provide mathematical nurses and geometrical dancing masters. Oh the excellence of learning ! What delight must it afford the fond parent, to see young master standing like the rafters of a house, and mistress dancing in triangles, rhomboides, and trapeziums.

BUT to proceed. We will suppose the young student hath made some advances in the knowledge of the Latin language, according to the method proposed. The first observable consequence is, that he loses, or at least gains, no ground in a taste for the elegancies of his native tongue. His diction becomes stiff and awkward, and his hand writing intolerable. So that whilst he is studying the anatomy of a dead language, he remains a stranger to the beauties of the living.

It is probable that there are many amongst the ladies, whom I have now the honour to address, who have never studied grammar, or know any thing of its rules ; and yet I venture to affirm, that a few lines, written by your fair hands, and dictated by gentle nature, shall convey more lively sensibilities, and shall find a shorter way to the heart, than a whole page—aye, or forty of them—composed by the most learned grammarian, with

Dilworth

Dilworth on his right hand, and *Entick* on his left.

IN the mean time the assiduous youth reads *Ovid's Metamorphosis*, for the improvement of his morals ; and learns from *Horace*, to be chaste and temperate. That time which might usefully be employed in studying the histories of those nations with whom we are, or may be connected, is consumed in reading the delectable and lamentable story of *Æneas* and queen *Dido*. The one, a hero of so insignificant a cast, that all the laudable ingredients of his character may be comprised in the words *Pius Æneas* ; and the other, to speak delicately, not the most shining example of female virtue and moderation. The one, a discourteous knight, and the other a furious enamorata.

It just occurs to me, that *Dido's* greatest misfortune was, that she lived in a barbarous age, when lawyers were not to be had for love or money. Had her famous amour happened in our day, she might have recovered at least £. 750 damages ;* which, all things considered, would have been
much

* This alludes to a circumstance of the time something like the case of queen *Dido*.

much better than cutting her throat upon a wood-pile—As desperate Dido did—This by the bye.

THE young student is at length fitted for the higher classes of science. He learns mathematicks, geography, natural philosophy, logic, ethics, and metaphysics.

WITH respect to the three first, I would only say—That if they were divested of some scientific pedantry (I mean as they are taught in the schools), they are worthy the attention of a rational mind, inasmuch as they advance the knowledge of truth; for of all valuable things, *truth* is the most valuable.

BUT of all the systems of complicated nonsense, that ever puzzled the busy brains of mortal man, *logic* is surely the most insignificant. An art which no ingenuity can apply to any one useful purpose of life. Imagine to yourselves, gentle hearers, a society of *logicians*, whose conversation in the common occurrences of life should be conducted in *syllogistic* mode and form. The learned house-keeper goes to market, and endeavours to persuade the butcher to lower the price of his mutton in *celarent*; the butcher enforces his demand in *barbara*. The logical lover also attacks his *dulcinea* in form. He assures her, in *particular affirmatives*,

firmatives, that he is enamoured of her charms; and from these premises, draws an artful conclusion, that she ought to encourage his passion, and return his love. The lady replies, in *universal negatives*. The gallant then plays off his whole battery in a compacted *sorites*. The lady answers only in the *simple form*—a weakness is discovered in her *middle term*—she is reduced to a *dilemma*, and surrenders at discretion.

IN such a process, what is to become of Cupid and his darts! What is to become of the logic of the eyes, and a thousand nameless expressions of the feelings of the heart, which nature alone can dictate? What is to become of them! Why they are entirely out of the question. Syllogisms—invincible syllogisms, must supply their place. What is learning good for, unless it makes us wiser than nature?

BUT I may be told that logic never was designed for such purposes; and that its use is the discovery of truth, and the detection of error—Here I join issue—and am bold to assert, that from the days of Aristotle to the present moment, mankind are not indebted to *logic* for the discovery of any one useful truth, or the detection of any one dangerous error—and further—that no man ever was *convinced* by a syllogism—But I observe
their

their reverences begin to frown—I shall, therefore, not urge this subject any further.

ETHICS and *metaphysics* bring up the rear of a learned education. It would tire your patience, my indulgent hearers, should I enter upon a detail of all the whimsical absurdities with which these sciences abound. If a man should conduct himself through life, according to the strict rules of *ethics*, he would be just as ridiculous as the knight of *La Mancha*, governing himself in the most common occurrences by the solemn formalities of chivalry.

As to *metaphysics*, it is a visionary system, wherein uncertain conclusions are drawn from uncertain premises, and in which the very terms used have no determinate meaning. The whole is an ingenious fabric built in air; having no real, known foundation, whereon to rest: not unlike the Pagan creed, that the world stands upon the horns of a bull; the bull on the back of an elephant; the elephant on a great tortoise; and the great tortoise upon nothing.

It must be owned, however, that we are indebted to metaphysics for some very curious and entertaining riddles: such as—that *infinite* carried
beyond

beyond *infinity* becomes *finite*—that one *infinity* may be twice as long as another *infinity*—that *soul* is not *matter*, and that *matter* is not *soul*; and in short, that it is no matter whether there be any soul or not—Oh! the heights and the depths of learning!

THUS, ladies and gentlemen, I have given you the outlines of a scholastic education. My first intention was to have discussed this subject in high strains of panegyric; but as this will be better done by some of my fellow-students, I refer you to them for those sublime flights of imagination which please the ear, but have nothing to do with the understanding or with truth.

I shall conclude my address with one reasonable request, which is, that you, my benevolent auditors, may extend the same indulgence to me you usually do to the orators of this place, by forgetting every word you have heard as soon as you have left this hall*.

As our design looks no farther than present entertainment, it would be unfair to make us responsible for the opinions we sport with, which should
never

* There is a pulpit on the stage, and the hall is frequently used as a place of worship.

never after rise up in judgment against us. I urge this, not merely for my own sake, but in behalf of my fellow-students also, who will doubtless, in the heat of their zeal, advance many things, which they would no more undertake to support than I, if called upon, would defend the observations and strictures I have just had the honour to deliver.

* ON PEACE, LIBERTY, AND INDEPENDENCE.

THE present topic of conversation, the object of universal attention, and the idols before which the unthinking multitude prostrate themselves in superstitious adoration, are the late most glorious peace, as it is called, and the freedom and independence of the United States of America established thereby. *Peace, liberty, and independence*, have been echoed from one end of this great continent to the other, and their praises set to every note in the scale of music : they have been be-posed, and be-rhymed, and be-fiddled out of all measure, and out of all tune, as if the prosperity—nay, the salvation of our country, had no other foundation whereon to rest.

FOR my part, I do not find myself disposed to throw my judgement into the common stock, to be
carried

* The arguments used in this speech are manifestly *ironical*; but the professors considered it as burlesquing the subject, and would not permit it to be delivered.

carried down by the undistinguishing current of popular opinion—*Peace, liberty, and independence!* Very pretty words indeed; they look exceedingly well on paper; whether they be written in round hand, Italian hand, square text, German text, or any other text, provided they be fairly written. This may please the eye; but let us consider a little how they will satisfy the understanding; how far they are calculated to meet the approbation of an inquisitive, penetrating mind: and this will best be ascertained by taking a view of the consequences and effects which they are likely to produce.

As to the first—Can any thing be more absurd than to suppose that *peace* is really productive of happiness? Is not the contrary demonstrable? Let us, for a moment, imagine that all the inhabitants of the world should remain for a whole century in perfect peace and harmony. That no such thing as public war, or private quarrels, should exist in that period, a situation, to be sure not possible, nature having wisely ordered matters otherwise; but suppose it to be so, What would be the consequence? The uninterrupted friendly intercourse between nations by commerce, and between individuals by contract, would soon reduce the wealth of the world to a level. All emulation would cease, and every spur to industry be blunted,

or

or done away. Luxury and insolence would, like a general plague, infect communities, and spread their baneful influences every where. The course of human life, running on in even channels and an unbroken calm, would become insupportably tedious, and engender green melancholy, and sour discontent, unless accidental discoveries of artificial gratifications, for artificial appetites, should now and then occasion some slight variations in the disgusting scene, by affording a temporary but fatal relief. A miserable corruption of morals, debauchery, and consequent languor and disease, would reduce the human species to a state of degeneracy; insomuch, that for aught I know, a second deluge would be necessary to purge the earth of its filthy inhabitants. No, it is *war*—spirited *war*, the clashing of interests, interfering passions, public contests, and private animosities, that give energy to the pursuits of men, and furnish a theatre whereon the heroic virtues of the heart, and the active powers of the mind, may exhibit themselves to advantage. Look round, and you will find that nature, in all her works, shews a fondness for contest, having made opposition the life of the world. What is animal health but a due mixture of contending qualities? Solids melting into fluids, and fluids coagulating into solids; acids and alkalies maintaining perpetual war, and rushing together in effervescing conflict; vio-

lent intestine motions from fermentation and digestion ; muscles contracted by muscles, pulling in opposite directions, and every property balanced by another of a contrary nature : let all this internal conflict be composed ; let the animal microcosm be in perfect peace, and the certain consequence will be death and putrefaction. So also in the elements : showers of rain, storms of wind, thunder and lightning, are absolutely necessary in the œconomy of our atmosphere. Without these, the healthful air would soon become a pestilential vapour, and the vast ocean, a stagnant pool of corruption. It is manifest, therefore, that nature delights in contest ; and never intended that either the moral, or material world should remain in uninterrupted peace.

As to *liberty*, it is difficult to say in what it really consists. Men having not yet affixed any precise idea to the word. The people of different countries have very different notions of it. What a European would call *liberty*, a *Cherokee* Indian would consider as a most cruel restraint. If the word be taken in its fullest extent, viz. a right and power to do whatever we please, it is a privilege which no man ever did or could enjoy ; an imaginary state of nature, in which men are supposed to have lived without control, and in which every individual

individual was a sovereign, has served as the foundation of many ingenious systems, and learned dissertations, by civilians, moralists, and metaphysicians; but even these profound philosophers are so far from esteeming such a state a blessing, that they derive all the advantages of civil society, and the good of mankind from a resignation of this natural liberty, which they assure us is altogether incompatible with the security and happiness of the individual.

BUT if we take the word in a more limited sense, as it is generally considered, when the terms *civil* or *political* liberty are used, I would ask, what are the great advantages derived from it? or, rather, what inconveniences does it not bring with it? *Civil liberty* consists, chiefly, in a people's being governed by no laws, but such as they have themselves made or assented to; in not being obliged to part with their property without their consent; and in holding their lives and estates secure from the capricious resentments of arbitrary power, or the grasping hand of over-weening avarice: but should not a prudent man consider that all this liberty brings with it a deal of trouble and expence?

HAD *Great-Britain* succeeded in her views with respect to this country, we should not have been

put to the laborious task of framing laws for our own government, a task which we seem but indifferently qualified to perform; we should have been rid of the intolerable plague, the heart-burnings, feuds, cabals, and chicaneries attending popular elections, and we should have been eased of the enormous expence of assemblymen's wages, commissions, fees and salaries to the officers of government, and a thousand other charges and inconveniences to which we must now be subjected: we should have had nothing more to do, but to pay when called upon, and obey when commanded. This further consideration ought also to have some weight, that if we had been cruelly and unjustly oppressed by a people three thousand miles off, all the world would have pitied our situation, which is no small consolation in trouble, and exclaimed against the tyranny of our oppressors: whereas, should things go wrong now, we shall have none to blame but ourselves; and when we complain, the natural answer will be, if you have placed men in power who abuse their trust, it is your own fault:—why did you not make a better choice? Your sufferings are the effect of your own folly, and therefore you deserve no pity. These are serious considerations. As to property being secured by political liberty, I would observe that this is a position more specious perhaps than true. The
 payment

payment of no taxes, but such as are levied by our own consent, form a pretty arrangement of words and ideas; but, strictly speaking, the fact is seldom really so. No man pays a tax with his own consent, that is, he would rather not pay it, if he could refuse with honour and safety. The payment of taxes is always attended with some reluctance of mind, and often with open murmurings and complaints, either as to the time, purpose, or proportion of the tax. The case is quite otherwise when money is taken from us by the strong hand of arbitrary power: all reasoning, all deliberation is out of the question—we have nothing to do but pay—and so the mind is saved a deal of trouble and vexation. This *paying* may, indeed, have a tendency to poverty—and so much the better; for poverty incites industry, and industry is the mother of health and contentment.

To illustrate my meaning by a familiar instance: suppose a traveller meets a friend on the road, who requests him to give or lend him a small sum of money for a present purpose: the traveller hesitates; he cannot decently refuse; and yet he would rather the request had not been made: in this conflict his mind suffers no small anxiety. But should a highwayman present a pistol to his breast, and with oaths and imprecations de-

mand his cash, with what chearfulness, with what expedition will he produce his purse ? and think himself happy in coming off so well.

WITH respect to life's not being secure under a despotic government, I have only to observe, that no one can justly complain of an injury he never suffered ; and that after the evil hath happened, the party will not be in a condition to complain. So much for civil liberty.

BUT *independence*, cries the American ; What have you to say against *independence* ? The glory of our country, the reward of our valour, and the fruit of our seven years sufferings, and bloody contest. This is mere popular exclamation. Let us view the thing in its true light, and we shall find that all the disadvantages attending civil liberty, some of which I have enumerated, are applicable to independence, together with many additional consequences.

WHILST we were dependent upon Great Britain, we had no trouble in studying the characters, customs, and manners of foreign nations ; the English were so kind as to furnish us with all their ideas on these subjects. They told us, that the *French* are a trifling and contemptible nation ;
that

that the *Spaniards* are proud, fullen, and revengeful; the *Germans*, ostentatious; the *Hollanders*, boors; the *Russians*, savages; and, in short, that the English were themselves the only people fit to live and govern the world, as if all other nations held their dominions by usurpation. How easy was it to believe all this? Implicit faith saves an infinity of trouble. How happy were we in submitting to the government, adopting the prejudices, and aping the manners of a nation, which we conceived to be the glory of the world, and the perfection of human nature?

WHEREAS, now, we are under the painful necessity of altering our sentiments. We are compelled by actual experience to acknowledge, that the *French* are a brave, generous, and polished people: and that none of the other nations are, in truth, such as they have been represented to us. Our commercial connections will convince us that human nature is fundamentally the same in every country. That good and bad men are to be found in every climate; and that the people of England have not actually monopolized all the virtue and wisdom of the world. Every conviction of error, is a violence done to the mind, inasmuch as the forcible eradication of a prejudice

dice must be attended with a painful sensation. The blind man is happy in his blindness, and the ignorant content with his ignorance. The wisest of men, has some where told us, that the encrease of wisdom is the encrease of sorrow.

ANOTHER inconvenience attending our independence is this—The imposts and duties heretofore laid on our commerce, contributed to the revenue of a prince three thousand miles distant, it was therefore not thought disreputable for the merchant to evade the payment of those duties, if he could. How delightful was it to exercise every species of ingenuity and craft in bilking collectors and customhouse officers! And how sweet was the enjoyment of the profits so obtained! But our independence has deprived us of all these commercial advantages; as it would be dishonourable, and even wicked, to evade the duties laid by our own laws, and for the support of our own government.

I have now discharged my conscience, and shall leave the decision to your own judgments. If, notwithstanding all I have said, and all I might have said, you will be so blind as to prefer a state of freedom, with all its cares and troubles, to a state of dependence and slavery, which requires nothing but implicit faith, and implicit obedience :

if

if you will persist in maintaining a right to make your own laws, and levy your own taxes, although a foreign power so kindly offers to take this trouble off your hands, you must e'en abide by the consequence, and enjoy the event as well as you can.

AT a public commencement in the university, an argument was held for and against the practice of DUELLING; the following speech was written for the young gentleman who took the defensive side.

— I Marvel my fellow-student did not ascend the pulpit, and deliver his pious harangue from thence. You have been entertained, my worthy hearers, with a sort of chapter against DUELLING: the orator has entrenched himself behind certain texts of scripture, and some vulgar prejudices—these make up the sum total of his argument; for, as to the rest, it was mere declamation.

You may make what use you please of his fine speech; but if you imagine that his private sentiments coincide with his public declamation, you may find yourselves much mistaken. He has too much good manners to interrupt me, or he would probably ask,—how I came to know his private sentiments? I answer from his own words just now delivered: “I hope, (said he) this polite audience will give me a candid hearing upon this subject, and entertain no unfavourable sentiments of my

my courage, though I should condemn it"—meaning the practice of duelling. This preparatory *salvo* may be paraphrased thus: "I am going, good people, to give you a declamation against the custom of fighting duels. This you must know is not an undertaking of my own choice, but has been imposed upon me. I must, therefore, make the best of it I can. But if you, or any of you, should conclude from what I shall now say, that I have not courage to defend my insulted honour, I tell you before hand, you have mistaken your man." This much, indeed, I can answer for the gentleman—I have known him some considerable length of time, and have not found him more meek and patient than his neighbours: but I leave him to answer for himself, and only request your kind attention, whilst I offer some arguments in answer to his fine speech, and in justification of the practice of duelling.

THE gentleman has told us, that duelling derives its origin from the *Goths* and *Vandals*, and those other barbarous nations which over-ran Europe, and extinguished all the refinements of art, science, and morality: that these savages, not having sagacity sufficient to determine in matters of private controversy, referred the dispute to the decision of heaven, by bringing the parties to mortal combat, under

under a belief that God would interfere in favour of right and justice.

SUPPOSING this to have been the real pedigree of duelling, I think it no dishonourable one: it was neither irreverend nor irrational to believe in a particular, as well as a general providence, and to submit to his unerring judgment and all-seeing eye, the detection of truth, and the administration of justice.

BUT I shall delve much deeper for the root of this practice; and am confident in asserting, that it is not founded in the customs of any particular age or nation, barbarous or civilized; but is inherent in the nature of man; is part of his original constitution, and coeval with his creation.

BEFORE laws were formed for restriction, or revelation given for instruction, man walked in the paths of natural liberty: he had a right to every thing his strength or wisdom could acquire, and to resent every injury according to his power and magnanimity. This right was indelibly recorded in the texture of his constitution: his Creator had given him such passions of the mind, and such powers of body for the purpose, as could by no means be mistaken. The ultimate object was the happiness

pinels of the individual, in its sustenance and security: but the race of mankind greatly encreasing, their intercourses and interferences became more frequent. The weak and timid were not able to stand against the strong and courageous: they lost their property, and had not strength to recover it: they received insults and injuries, and had not spirit to resent. At length they had recourse to cunning to obtain that security which they could not accomplish by valour; and formed a device which should put the weakest upon a footing with the strongest of their own species. This was the origin of civil society. A solemn compact was made, wherein every individual, for himself, and for his posterity, resigned his natural liberty, and natural rights, into the hands of the collective body of the whole.—And what did the individual receive in return? Why a solemn assurance, that all his injuries should be redressed, his property secured, and his personal rights and dignities supported and defended by *the whole*.

It is on this compact that I ground my arguments in defence of duelling. The powers of *this whole*, or of society, are exhibited and exerted in the execution of laws. To the laws, therefore, must every individual apply for justice. And I do not hesitate to acknowledge, that in all cases, where

where the laws can give competent satisfaction, no man ought to attempt the redress of his own wrongs. But if there should be cases wherein a man may suffer the most atrocious injuries, and the most provoking indignities, for which the laws have made no provision at all, or no adequate provision, I say recourse may and ought to be had to original natural rights for redress; the compact between the *whole* and the individual having been so far violated on the part of society.

For instance; if my neighbour should claim a title to my land, it would be very absurd in me to send him a challenge to determine on titles by sword and pistol. The laws of the country are quite competent to this business, and by the social compact aforesaid, I, or my ancestors for me, agreed to submit the determination to them. But if an adversary, either in my presence, or behind my back, should load me with unmerited abuse, stain my reputation with injurious falsehoods, and scandalize me with the approbrious terms of *rogue*, *rascal*, *scoundrel*, *villain*, &c. how am I to obtain redress? I appeal to the laws; the learned judge puts on his spectacles, and after turning over his common place book, and referring to many folio authorities, he tells me, with phlegmatic solemnity, that he can find no such words there: that
the

the law has assigned no meaning to these appellations; and that my action will not—Heavens and earth! what has my wounded honour to do with law meanings? Hath not all the world agreed in the obloquy of these terms? Do they not imply every thing that is base, dishonourable, and contemptible? But they are not known in law. Very well; I appeal then to those laws which are not too learned to understand, nor reluctant in recognizing the manifest injury that has been done to me; I appeal to the court of nature, where I am sure my action will lie. I say, that in such instances, the compact with my progenitors hath been broken by society; and that neither they, or myself, ever gave up this right of appeal.

It seems then sufficiently manifest, that I still retain a natural right to resent those injuries for which the laws of society have made no provision. But how am I to do this? By secret machinations! by poisons! by assassination! No—Heaven forbid! Neither the laws of nature, or of honour, justify such treacherous practices. I reproach my adversary with the unprovoked wrong. I call him forth to defend the licentiousness of his tongue by the valour of his arm. I generously put myself upon the same footing with my foe. I expose my
life

Life in defence of my reputation, which is dearer than life, and depend upon Heaven, and the justice of my cause, for the important event.

It is in vain to oppose a few sophistical reasons and vulgar prejudices, to a custom authorized by nature, confirmed by the practice of every age and nation, sanctified by divine permission, and avowedly established by the civil law.

It may be thought that I have ventured too far in these assertions ; but I have ventured no farther than I can well justify.

That it is authorized by nature, I have already sufficiently shewn. That it hath been the practice of every age and nation, will not be denied. History abundantly proves it. That it hath been sanctified by divine permission, may be shewn in many instances. Not to be tedious, I shall only refer to the famous duel fought between *David* and *Goliath* in the valley of *Elah*. But that this custom, or at least the principle on which it is founded, is established by the civil law, requires a little explanation.

I ask, then, in what law of nature is the law of nations founded which justifies public war ?

What

What say the books? The most approved writers on this subject? They tell us, that if a dispute happens between two princes, or the nations over which they preside, there is no power on earth authorized to determine the controversy. There are no degrees in sovereignty. Nations are to be considered as individuals in a state of nature, and the civil law is nothing more than the laws of nature respecting individuals applied to nations, so far as that can be done with consistency. Therefore, say these authorities, as there is no earthly judge impowered to determine a controversy between nation and nation, the parties must, and have a right to, take up arms, and rest their cause on the bloody arbitrament of war; trusting that Heaven will favour the right. In fact, the contending nations fight a great and mighty duel. And are not these the very principles upon which I have endeavoured to justify private duels? If all the powers of earth should agree to form a national society, and should resign their respective individual sovereignties into the hands of *the whole*, and form a system of a general law for the adjustment of national controversies, and the redress of national wrongs, public war would then become unjustifiable, unless in cases where no provision had been made by the general system: in such cases the contending powers

powers would certainly go to war, and fight a national duel.

HAVING been thus large in establishing a solid foundation whereon to rest my argument, I shall not take up much of your time in what remains. I shall rather suggest hints than dilate opinions on the uses and benefits which society derives from the existence of this custom.

FOR these we need only look into the scenes of polite life, public assemblies, the army, the navy, and the courts of princes. If every hot tempered, over-bearing, ill-mannered fellow could indulge his furlly humour, or vent his capricious spleen without apprehending any consequences, but such as the heavy paced law might bring on, our scenes of pleasure, urbanity, and politeness would become bear-gardens of confusion, resounding with noisy broils, and malicious altercations. A duel—the fatal determination of sword or pistol is a very serious business. Even the most passionate and imprudent caveller, will be cautious how he involves himself in so troublesome an affair. And this consideration keeps many a licentious spirit within the limits of decorum.

A pru-

A prudent man will take every reasonable, every honourable, means to prevent a quarrel from coming to so critical an issue, and will advance as far towards explanation and reconciliation as may be consistent with his enjoyment of that reputation and esteem, without which life itself is of little value.

I readily acknowledge, that duels sometimes happen upon too trivial occasions; and that the rational and honourable means of clearing up mistakes, and reconciling differences, are not always employed as they should be; but the abuse of any principle or practice should not be admitted as an argument for its abolition.

LASTLY, the rays of beauty ever gild the laurels of the brave. He who has not spirit to defend his own honour, will make but a poor protector of the delicate sex. The lovely nymph will turn aside from the sighing insignificance of the perfumed coward; and rush to meet the hero, panting with love and the toils of war. When an *Alexander* and a *Thais* unite, every voice is ready to join in chorus with the poet.

“Happy! happy! happy pair!

“None but the brave deserves the fair.”

* ON PUBLIC SPEAKING.

LADIES AND GENTLEMEN,

WE have invited you to this place, and you have condescended to accept of our invitation. It is rather too late now to enquire what our abilities can furnish for your entertainment ; or, what your expectations ought to be. Here we are, and notwithstanding much self-sufficiency and flattering hope, on the part of my companions, it turns out just as I expected ; that we must depend on your good nature for a favourable reception, and not on the excellence of our performances.

My own opinion was much opposed to the whole scheme, being greatly apprehensive, that we should only expose ourselves before so polite and judicious an audience. But no—it would be *fourth* of

* The young lads of the college invited their friends to hear some public speaking on the 4th of July 1785 ; this speech was delivered as introductory to the entertainment of the day.

of July—every one had something clever to say on the occasion—the subject would recommend itself—the ladies would be pleased—the gentlemen would have too much complaisance to oppose their opinions with harsh criticisms—and all would be well:—I wish it may be so with all my heart.

It must be confessed, that this public speaking is but a dull kind of entertainment, especially when administered by young and unexperienced orators, on subjects which have been so frequently and fully investigated, as to leave scarce a flower in the field for us to gather. In this situation what more can we do than make a very good bow at the beginning of our speech, and a much better one at the end of it; and even this is more than we are all able to perform, as you may have already observed.

It is customary with professed and skilful orators to supplicate the candid indulgence of their auditors. This is frequently, with them, only a ceremonious compliment; but with us, you may depend upon it, it is a sincere and earnest request. For it must certainly exercise the most practised patience, to see a lad stand, bolt upright for half an hour, like the definition of a perpendicular line in Euclid, and utter what he calls a *speech*; or to see

ther bounce about the stage, and vociferate an oration ; as if eloquence was the produce of agility of body and strength of lungs. The only apology that can be made is, that we do the best in our power, and are in hopes of performing better hereafter.

To speak in public with propriety and effect, requires many talents, natural and acquired. The object of all public speaking is *persuasion* : to make other people believe or act according to the speaker's mind. For this purpose, it is necessary that the orator should have a *pleasing address, a lively imagination, a thorough knowledge of his subject, and a good ear*, with respect to the language in which he is to deliver his sentiments.

FIRST impressions have an unavoidable influence on the mind. The most judicious and impartial hearers conceive some predilection for, or prejudice against, the speaker on his very first appearance. It is, therefore, of great importance, that a genteel manner, and graceful address, should bespeak the favourable attention of the audience ; otherwise, the orator will not only have to encounter the difficulties incident to his subject, but must also labour against a foreign influence : whereas a genteel figure, graceful deportment, and a pleasing ad-

addresses, sometimes operate in his favour to greater advantage than all the force of his arguments ; and what is of infinite importance, he is sure of the good opinion of the ladies.

A lively imagination will enable the orator to throw an air of novelty over his subject, and to present it in points of view in which it hath not frequently been considered. To enforce his arguments with apt allusions, and embellish the whole with striking metaphors. To hear a dull and hackneyed subject elaborately discussed by a dull and phlegmatic speaker, affords about as much entertainment, as to hear a demonstration from Euclid, proving a proposition, which cannot be denied ; or a string of logical syllogisms, proving nothing at all.

A thorough knowledge of his subject, I have laid down as the next requisite in a public speaker. This, I confess, is not absolutely necessary ; as there are many who make a very tolerable figure without it. It might, indeed, be extremely inconvenient to make this rule strict and general, inasmuch as there would be danger of silencing one third of the gentlemen of the bar ; one-half of the orators of the pulpit ; and three-fourths of the speakers in parliaments and houses of assembly :

yet it seems but reasonable, that an author should have some knowledge of the subject he is handling; and, therefore, this rule is rather recommended than insisted upon.

A good ear is the last mentioned, though not the least important qualification of a good speaker. If his language is pure, his periods harmoniously arranged, and his voice melodiously adapted to the construction of every sentence, the orator will not fail to charm his hearers, even though there should be but a very scanty portion of solid sense diluted in his flowing rhetoric. The mind is insensibly captivated by pleasing sounds, and the most obdurate judgment yields to the magic influence of sweet harmony. It is, therefore, absolutely necessary that authors of little sense should pay great attention to the powers of sound; for every hearer expects to be either instructed or pleased; and he has a right to expect it.

It is next to impossible to lay down rules for harmonious composition. When words and sentences are so arranged, as to produce a pleasing melody, all acknowledge the effect, but none can point out that particular construction in which the magic consists. Grammar rules have nothing to do with it; for a sentence may be strictly grammatical

matical, and yet as offensive to the ear as the sharpening of a saw. For instance, observe the contrast between the two following sentences; both of which are equally unexceptionable in point of grammar.

“SOME have a happy talent of expression, whereby they compensate the want of sentiment, by the melody of their style; their language, ever flowing like a wave of the sea, and their periods closing in such musical cadence, that the ear is fascinated by the magic of sound, and the mind lulled in a pleasing repose.”

“OTHERS, without giving to grammar rules offence, shall arrange so unskillfully their words, breaking, as it were, and interrupting the sense, or rather nonsense, they mean to inculcate, by frequent (and oft-times unnecessary) parenthesis, that the ear stumbles through the rugged paragraph, as the feet would stumble in scrambling through a street, when the pavement had been broken up, over bricks, stones, and posts, mixed together confusedly.”

A fine speech, like a fine lady, enforces attention, and captivates the heart. When it describes
pleasing

pleasing objects, it is beautiful nature, dressed by the graces; when it soars in the sublime, it elevates the soul, and animates the nobler passions: it gives to persuasion irresistible force, and bids the tear of pity fall, like the dew of heaven—gently fall—on virtue in distress.

ON THE LEARNED LANGUAGES.

LADIES AND GENTLEMEN,

I AM sensible of the dangers and difficulties to which an orator exposes himself, who boldly adventures to oppose public prejudices, and contradict established opinions, and yet without this literary heroism, philosophic truth had never been brought to light. A rigid adherence to doctrines generally admitted, would have fixed us at this day in the errors of ancient systems, or have left us involved in the whimsical vortices of the modern *Descartes*.

THE generality of mankind receive for truth, whatever may be handed to them as such, by those whom they have been accustomed to esteem as men of profound learning. They are not anxious to enquire for themselves; because enquiry is replete with trouble, and it is much easier for them to adopt the opinions of others, than to form opinions for themselves. Had astronomers told the multitude, that the sun is twice the distance, or but half

half the distance from the earth, that he is now supposed to be, it would have been so believed; not one in a million would have thought of detecting the error by calculation. But woe to the man who attempts to unhinge the popular system! *Galileo* was imprisoned and persecuted for asserting that the earth revolved on its axis, and was compelled publicly to renounce a truth of which he was fully convinced, and of which there is now no doubt remaining.

THESE preparatory observations I thought necessary, as an apology for the manner in which I propose to handle the subject assigned to me: to wit, *the use and advantages of what are called the learned languages in the education of youth.*

THESE advantages ought, indeed, to be very great and manifest to compensate for the precious time spent in acquiring them. Let us, for a moment, if possible, lay aside former prejudices, and consider the subject with candour and impartiality.

THE benefits to be expected from the study of the dead languages, must, I think, flow from some or all of the following sources. It must either
open

open a door of knowledge, to which there is no other means of access, or will polish the manners, and enrich the mind with ideas not otherwise to be acquired; or will serve as a key to all other languages, and become a vehicle of universal communication.

WITH respect to the first I venture to assert, and think it will hardly be controverted, that there is no ancient author, Latin, Greek, or Hebrew; philosopher, historian, or poet, of any reputation, whose existing works have not been translated by able hands into most of the modern languages of Europe. So that there can be no knowledge contained in those works to which the reader of the present day may not have access by the easy medium of his native tongue. The treasures of the ancients have been minutely scrutinized, and every article of value held up to public view, and faithfully reflected from the mirrors of modern languages.

NEITHER can I see, in the second place, how an acquaintance with the Latin, Greek, or Hebrew tongues should necessarily polish the manners, or enrich the mind with ideas not otherwise to be acquired. Is there an inherent magic, a supernatural fecundity, in those ancient languages which
modern

modern modes of speech cannot boast? When a plain man reads in his Bible these words: “ In the beginning was the word, and the word was with God ;” has he not the same ideas suggested, and an equal comprehension of their meaning with the learned scholar when he reads in loftier tone, “ *Ἐν ἀρχῇ ἦν ὁ λόγος, καὶ ὁ λόγος ἦν πρὸς τὸν θεόν.*”—Surely there can be no difference. As to polishing the manners, a minute and technical knowledge of the learned languages hath an effect so notoriously to the contrary, that to call a man a *mere scholar*, is as much as to say, he has no manners at all.

BUT perhaps languages, like medals, acquire a value merely from their antiquity. If so, we ought to establish schools for teaching the Chinese tongue, which is certainly more ancient than either Latin or Greek, and, as some contend, than even the Hebrew itself. Look where we will for a distinguishing pre-eminence in these dead languages, such as may justify the great expence of time and study necessary to acquire them, and candour must acknowledge that such pre-eminence is not to be found.

BUT, says the third position, they serve as a key to all modern languages, and may be made a universal means of communication.

THE

THE only purpose of language is to convey ideas. If modern speech does this, it is complete ; if it does not, it is no language. What necessity then for a key ? When a person says *a house*, or *a man*, is he not as well understood as if he should add, that the one was called *domus*, and the other *homo*, by the ancient Romans ? *Terms* are altogether arbitrary ; and general consent alone adapts them to the things they are designed to represent. And surely the general consent of the moderns is as respectable and valid as the general consent of the ancients. The truth is, there is no natural connection between *words* and *things*.

IF such a connection was to constitute the perfection of a language, we must acknowledge, that the infant excels in propriety when he calls a sheep *baa*, or a dog *bow-wow*.

BUT the Latin tongue, it is supposed, may serve as a universal means of communication between people of different nations. True ; and so may any other language, if universally admitted and taught. The Latin tongue does not seem to be peculiarly and exclusively adapted to this purpose. For, notwithstanding that it has been inculcated with so much assiduity by innumerable private tutors, and public schools, for so many hundred years ;
yet

yet the French, is at this day, a more universal language than the Latin. The experiment has been fairly made and urged to the extent; yet but few write in Latin, and fewer still use it as a medium of conversation. As to Greek, it is no where in fashion but in the schools; and none but the Jews make use of the Hebrew. To what purpose then are so many years spent in acquiring these obsolete languages? Why, truly, that one in ten thousand may read ancient authors in the original, whilst the unhappy ten thousand must put up with faithful translations.

AN observation or two on the method of teaching these learned languages shall close my speech on this occasion, which I perceive *some* think is already longer than it should be.

It might seem strange to assert, that few teachers of a language, according to the present mode of teaching, have any taste for its beauties or knowledge of its powers. And yet this is manifestly a general truth; accustomed, as they are, to treat it by detail, and hackneyed in a critical consideration of its component parts, they, almost unavoidably, lose all sense of its general effect, and become strangers to that spirit of expression, in which its principal elegance consists.

FOR

FOR the same reason, the pupil never acquires a true taste for the learned languages, till after he has been emancipated from the shackles of grammatical investigation.

To teach a language by means of its grammar is beginning at the wrong end; for no language ever originated in a grammar: and what is worse, all the energy and spirit of a language must necessarily evaporate in a grammatical construction. Let us take an example from our own tongue. Suppose the following passage, from *Mr Pope*, to be put into the hands of a boy learning English.

- “ Heaven first taught letters for some wretch’s aid,
- “ Some banish’d lover, or some captive Maid.
- “ They live, they speak, they breathe what love inspires
- “ Warm from the soul, and faithful to its fires :
- “ The virgin’s wish, without her fears impart,
- “ Excuse the blush, and pour out all the heart ;
- “ Speed the soft intercourse from soul to soul,
- “ And waft a sigh from Indus to the pole.”

FORTHWITH the learned grammarian, and his industrious pupil, fall to work on these beautiful lines. They mince them without mercy into verbs and adverbs, nouns and pronouns, substantives and adjectives, gerunds, participles, articles and particles; and God knows what. But in this generallaceration,

What will become of the melody of the verse, the delicacy of sentiment, the elegance of expression, with many nameless graces, not defined in the rules of grammar? Alas ! all would vanish in the scholastic process. As well might an anatomist dissect a living body, with a view to discover the nature and seat of the soul that animates it, as a grammarian to investigate the powers of a language, by resolving it into its component parts.

BUT what would this author say, could he be a witness of such a chemical distillation of his charming lines ? or what would *Horace* do, if he could be present in a modern school, and hear one of his elegant odes frittered into all the small ware of the syntax ? What would he do ? He would break the pupil's head, and put the tutor to death.

BUT my zeal for truth is hurrying me beyond the bounds of discretion ; the time may come when teachers will be convinced that languages are not to be squared by rule and compass, as lands are surveyed ; and that it is not necessary to search antiquity for the means of a reciprocal communication of ideas ; and that languages most in use, are, in truth, the most useful to be known.

A REPLY TO THE FOREGOING SPEECH.

LADIES AND GENTLEMEN,

MY fellow student has entertained you with a dissertation on the learned languages, and added some strictures on the method of teaching them in modern schools. He has handled the subject in his own eccentric way ; and has, I doubt not, obtained from this polite audience all the credit his ingenuity deserves.

BUT ingenuity is not truth ; and false reasoning, however varnished with wit, is false reasoning still.

I shall not attempt to imitate my friend in the vivacity of his stile ; but he must excuse me, if I endeavour to expose the fallacy of his arguments, and rescue so considerable a branch of modern education from the obloquy his capricious humour hath been pleased to throw upon it.

HAVING myself been duly fermented with grammatic froth ; kneaded and moulded by the discipline of the schools ; baked, and as it were, piping hot from the classical oven, and incrusted with science, can I hear these slanders on the learned languages, which I have been so long accustomed to respect, and which I have acquired with so much painful study, and yet sit silent by ? No ! the fire of old Rome, and the spirit of Athens, will not brook such indignity.

THE first assertion, and indeed the ground on which he chiefly rests, is, that all ancient authors of any repute have been translated into the modern languages ; from which he infers, that the originals are of no further use. He might with equal reason have said, because a shadow projects the true outlines of the substance, it is of equal value, and will answer the same purposes.

BUT there are numberless beauties to be discovered by the scholar in the original, and a force and propriety arising from what is called the *idiom* of a language which no translation can convey : not only this, but the real meaning of the author, even in the original, is not always precisely ascertained by the learned themselves—how then shall it be found in a translation ?

To

To prove this, we need only look at the voluminous notes upon Horace, or the various readings of Virgil, in which the most profound scholars have differed in opinion; and about which they have disputed, confuted, and refuted each other time immemorial. What delightful obscurity! What glorious uncertainty! Will a translation furnish any thing like this? Surely not. The terms of a known and living language are too well understood to admit of much altercation. All is a dead or languid precision. The system, the doctrines, the arguments of a modern author may be questioned and canvassed; but seldom his meaning, if he has any meaning at all.

THE great and excellent use of the learned languages consists, in my opinion, in the two following particulars.

FIRST, They afford the moderns an inexhaustible source of ingenious altercation and profound conjecture: and,

SECONDLY, By deriving the technical terms of every art and science from these languages, a mysterious obscurity is obtained which throws a veil over the face of truth, and screens the rays of knowledge from vulgar eyes.

As to the first; in the various readings of ancient authors, in notes, critical and explanatory, and in notes upon those notes, what a field is opened for profound erudition! And when the modern commentator finds himself hard pushed, it is but supposing an error to have crept into the text; it is but altering a letter or two, as occasion shall require, and he can make the original support his comment with all the seeming reason in the world. And however a brother critic may dispute his conjectures, he is sure that the author himself will never come back to decide the contest and put him to shame. An obscure sentence will furnish a literary feast, and one half of a long Greek or Hebrew word has been sufficient to occasion a schism, and give the world a new religious sect.

I know of no modern author so rich in this kind of learning as *Shakespeare*. He wrote on the verge of the old and modern English, and has so blended the idioms of the writers of his day, with those of their grandfather's, as to occasion much delightful uncertainty and ingenious commentating. This, together with the incorrect manner in which his works have been handed to us, have afforded a glorious opportunity for guess-work: and *Pope*, *Warburton*, *Theobald*, *Johnson*,
and

and many others have exercised their talents accordingly.

BUT I hasten to the second advantage I mentioned as peculiar to the dead languages ; to wit, that by deriving terms from them into the arts and sciences, a mysterious obscurity is obtained, which throws a veil over the face of truth, and screens the rays of knowledge from vulgar eyes.

WHEN the barbarous nations of the north overran Europe, they obliterated almost every trace of science : a few monks only were in possession of the seeds of learning, contained in the remaining works of ancient authors. When the day of knowledge again began to dawn, these manuscripts were held in great repute ; and when printing was invented, copies of them were exceedingly multiplied. As these were then the sources of science, no man was esteemed learned, who had not studied the languages in which they were written. Such was their use at that time : very different, but not less important, is their use at this day : by means of repeated translations, the treasures of the ancients have been laid open to public view. Science, divested of mystery, would lose its value, and men of learning forfeit that respect which the vulgar owe to profound erudition, were it not that

the philosopher, the scholar, the man of science in every department, hath taken care to borrow a profusion of technical terms from the learned languages, which throws a mantle of mystery over his profession, and covers the secrets of his art from the admiring multitude: so that modern learning consists, not so much in the study of *things*, as in the knowledge of *terms*. The author of *Hudibras* very justly observes, that

“ All a rhetorician’s rules

“ Teach nothing but to name his tools.”

AND so it is, for the most part, in every science—and so it ought to be—for if it were otherwise; if the terms used by men of learning were given in the vulgar tongue, every body would understand them, and science soon become contemptible. For instance; a grave and learned physician thus informs his patient: “ Sir, your disorder is an *anthrax*, and I shall prescribe an emollient *cathaplasm*.” The poor man is filled with fear, wonder, and respect: but had he been told in plain English—“ You have got a boil, and must apply “ a poultice of bread and milk;” he would despise both the doctor and the disease.

IT is the Greek and Latin languages that furnish

with these high sounding words, so singular to the ear, when the sense is concealed.

SOUNDS have a delightful effect upon the human mind ; especially articulated sounds : and the effect is still more certain, when they have either no meaning at all, or the meaning is not understood.

AN ignorant woman, weeping aloud under the influence of a powerful preacher, was asked the cause of her lamentation : Oh, sir ! said she, don't you hear those charming words, *Mesopotamia*, *Pamphylia*, and *Phrygia* ? And I knew a lady during the late war, who did not possess one political principle, or had any precise idea of the real cause of contest between Great-Britain and America, and yet was a professed and confirmed *tory* : merely from the fascination of sounds. The *imperial crown*, the *royal robes*, the *high court of parliament*, the *lord chancellor of England*, and so on, were words of irresistible influence. Whilst captain *A*, the taylor ; colonel *B*, the tavern-keeper ; and even *general Washington*, the farmer, only created contempt. But I am persuaded, if some Indian chief, with a long Cherokee or Mohawk name, had commanded

manded our armies, she would have thought much more respectably of the American cause.

THIS being truth, and a truth founded in nature, will any one pretend to say, that the Greek and Latin languages are of no use? What! shall we call things by downright vulgar English names? Shall not the physician have his *paregorics* and *antispasmodics*; his *lenitives* and *sedatives*; his *antiphlogistics*, *cathartics*, and *diuretics*? Shall not the lawyer have his *fieri facias*, his *scire facias*, and *certiorares*? Or the divine his *latitudinarians*, *millenarians*, *sublapsarians*, and *supralapsarians*? Shall the chymist give up his hard words, and the botanist his technical terms, in the knowledge of which his whole science consists? Deplorable will be the state of erudition when this shall be the case. Knowledge, indeed, might encrease and become more universally diffused; but *learning* would be no more. We might then say, such a man is a man of *genius*, of *wisdom*, of *understanding*; but where should we find the man of *profound erudition*: one who would spurn at the simplicity of nature's works, and plunge in system, deeper than common sense could even fathom?

BUT thanks to our universities, colleges, academies,

demies, and schools; or rather thanks to the learned languages, which they so laboriously inculcate; such an æra, it may be presumed, is yet far distant.

THE following lines were written for a young gentleman, who was to take his degrees at a public commencement ; but the professors would not permit him to deliver them.

I MAKE a specch before so many ladies !
 Not I indeed—my genius but a jade is :
 I've try'd her often, and I know too well,
 In public spouting I shall ne'er excell.
 My fears and bashfulness would so prevail,
 If I attempt it, I shall surely fail :
 Of my fine speech, forget at least one half,
 Stand quite confus'd, and raise a gen'ral laugh.
 —Go you of flippant tongues, and brazen faces,
 And shew the ladies how you've learn'd the graces,
 Play well your parts, and suit them to the time,
 —Scholastic bows, and nonsense most sublime.
 For me—I've no such talents to display,
 But wit enough to keep myself away,
 And not expose deficiencies to-day. }

THUS I address'd my friend and fellow-student,
 And then sat down, determin'd to be prudent.

WELL, ladies, you have heard each learned speech ;
 Good sense, no doubt—but sense above your reach ;
 For instance—first, a Latin declamation—
 Are you not wiser made by that oration ?

—“ Oh

—“ Oh yes !—*doctrina universitatis* ;
 High sounding words, all charming, and all *gratis*,
 With sense and meaning what have we to do ?
 The words were fine, and well deliver'd too :
 Merit to-day, we by amusement measure :
 We came, not for instruction, but for pleasure.”
 'Tis true, sounds more than sense enchant the ear ;
 There are but few that *think*, but all can *hear*.

A set of moral speeches follow'd next,
 With bows and scrapes for prologues to each text.
English, 'tis true—the things were well enough,
 But how can ladies like such serious stuff ?

PRAY did you mark the learned dissertation,
 To prove that all the wonders of creation
 Are only visions of imagination ?
 That what we see, and feel, and *substance* call,
 Is nature's slight of hand—deception all.
 No matter whether *things* exist or no,
 'Tis quite sufficient if we *think* they do.
 Alas, for pity ! that yon beauteous maid
 Should only be the shadow of a shade :
 Her glowing cheek ; her lips of deeper dye,
 Her panting bosom, and her sparkling eye
 Are all delusions ; so we have been taught,
 Existing only in her lover's thought.

WHY should that phantom of an amorous swain,
 Sigh to the fair imaginary pain ?

Since

Since all his fancy'd joys would only prove,
 Ideal raptures of ideal love,
 Oh, rare philosophy ! Oh ! skill divine !
 Pray, ladies, is not this extremely fine ?
 To such high learning none can make pretence,
 But those who scorn the bounds of common sense.
 Stretch wide the wings of seeming demonstration,
 And soar in regions of their own creation.

IN truth, your patience has been tried, but say ;
 What shall we call th' amusement of the day ?
 Is it a comedy ? a farce ? Oh, no !
 For the whole world we must not call it so.
 'Tis a *commencement* ; that's the proper name,
 Or *general goal delivery* ; much the same.

Now you must know I've had an odd conceit
 About this tedious scientific treat ;
 I ask their pardons, but in my opinion,
 It seems much like the peeling of an onion.
 Skin after skin, and knowledge after knowledge,
 All smelling rank of learning and the college ;
 If you peel on, in hopes a core to find,
 Alas ! there's little more than skin and rind.

BUT there's yet more to come ; a matter serious ;
 A ceremony, solemn, and mysterious ;
Degrees will be confer'd—the high reward
 Of many a toilsome task, and study hard ;
 Honours to gratify ambitious hearts,
 And dub each student *bachelor of Arts*.

Our

You'll see professors sit with due decorum;
 The lads all standing in a row before 'em;
 Our provost then, will speak to each in Latin;
 You'll be quite charmed, 'twill come so very pat in,
 "*Auctoritate qua fuit constituta—*
 You've been good boys; of that there's no dispute—a
In cuius rei; here it is my lad-o,
Hoc little scroll of parchment *tibi trado.*"

THIS done, a speech concludes; a doleful ditty!
 Call'd *validictory*, to move your pity.
 You'll see the orator, with studied grace,
 Screw up to seeming grief his rueful face.
 —"Adieu! ye dear companions of my youth,
 With whom I trod the flow'ry paths of truth,
 One parting tear!"—and hear a tear should come;
 Oh! sad I! I've left my handkerchief at home.
 No matter; such will be the mournful stile,
 Weep if you please, for my part I shall smile.

BUT stop! methinks I see his reverence
 At my unlicenc'd prattle takes offence;
 Oh, ladies! did you know, how by his frown
 A modest youth like me is taken down,
 You would not wonder, if, to shun a fray,
Respect should take me suddenly away:
 I go; but mark the sequel of our play. }

* ON THE ESTABLISHMENT OF THE
NEW CONSTITUTION
FOR THE UNITED STATES OF AMERICA.

LADIES AND GENTLEMEN,

YOU have lately been entertained with an exhibition, which, for novelty, splendor, and decorum justly merited universal admiration and applause. If, besides the magnificence of the thing itself, we take into consideration the important occasion that induced it, it must be acknowledged to have been an object most interesting and truly sublime.

You will readily suppose, that I refer to the *grand federal procession*, performed in celebration of that memorable day which gave to our country *freedom and independence* ; and also of the late
happy

* This speech was not delivered

happy establishment of a liberal and efficient government, on which the future dignity and prosperity of America is to be founded.

To give stability, energy, and respectability to government—to concentrate the strength of a nation for national purposes; and at the same time leave to the people at large a full security in, and enjoyment of, essential rights, is a problem in politics which has employed the pens of the most enlightened men in every civilized age and country; may we not hope that it was reserved for the genius of America to solve this difficult problem; and shew to the world a system of government possessing all the requisites which theory demands, and producing all the effects which can reasonably be expected from experiment?

THE circumstances under which our federal constitution hath been framed and established, are so new and unprecedented, that we may hope for new and unprecedented good consequences in its operation.

THE first outlines of most of the political systems of Europe were originally designated by the sword, not by the pen; were the fruits of conquest, or the offsprings of rude necessity, not the production of deliberate choice, the consequences
are

are accordingly manifest. In some instances, an uneasy and restless submission under a constant sense of mutilated rights ; in others, a total prostration of the majesty of the people, and a degradation dishonourable to human nature.

BUT *here*, the case hath been far otherwise. No successful hero hath, by chance of war, obtained a power to prescribe a mode of government to the people ; but the people have by their valour obtained the right and the opportunity of framing a government for themselves : and this, not a barbarous and uninformed multitude ; but a people highly civilized, who know what government is, and what it ought to be ; and who had before their eyes the experience of ancient times, and the present examples of the world.

THUS situated, and thus instructed, they selected, by a free choice, a competent number of tried patriots and able statesmen, to frame for them a system of general government. In this venerable body was concentrated the wisdom and integrity of a nation : not *virtually* only, but in *truth* and in *fact*, if we consider individually the illustrious characters who composed the late general convention.

THIS honourable band of patriots, after the most mature deliberation, and after balancing all considerations, local and general, proposed a plan of national government to the attention of the people at large. This plan, by frequent publications, and numerous displays of its component parts, was brought, in effect, to the very door of every person interested in it. After which, by a second free election, persons were appointed in each of the states, to reconsider, and impowered to adopt or reject it, in the name, and on the behalf of the states respectively. Under all these cautions, deliberations and scrutinies, the present government of the United States of America hath been ratified and confirmed by ten states, and thereby gained a legal establishment according to the terms proposed.

It would be presumption in me to attempt to devèlope the properties, and probable effects, of a system which is the result of so much ripened judgement and combined wisdom ; yet permit me to point out one striking feature in the object of our present admiration, which is, that as our government originated from, and has for its foundation, the people at large ; so, in the periodical renovations of all its component parts, recurrence is constantly had to the people at large ;

and it contains within itself a constitutional right of amendment, when ever experience and concurring opinions, shall deem amendment necessary ; circumstances sufficient in themselves to silence all objections. For the people have not given up to their rulers all power, with only a scanty reservation of enumerated privileges for themselves ; but they have delegated enumerated powers, reserving all their essential rights.

WHAT glory to our country, what happiness to the people, may not be expected under a government so constituted ! Already hath the voice of freedom invited many thousands of emigrants from nations beyond the seas : arts and manufactures begin to raise their heads ; and agriculture hath already begun to smile in the western wilderness. These are the effects of freedom only ; but how will these effects be increased when it shall be known, that *that* freedom is secured and substantiated by a government whose essence is *the rights of the people* ?

“ Science shall flourish, genius stretch her wing ;

“ In native strains Columbian muses sing ;

“ Wealth crown the arts, and justice poise her scales,

“ Commerce her pondrous anchor weigh,

“ Wide spread her sails,

“ And in far distant seas her flag display.”

If we consider the vast extent of our country, its variety of climate, its hidden treasures, and innumerable resources, and to crown all, its now established government, there seems to be no ingredient wanting to render us, in time, a great and happy nation. Without *virtue*, however, all the rest will be vain and fruitless. An abandoned and profligate people can never be happy : but, as it is manifest, that in other countries, the nature of the government, and the manners of the court, have a considerable influence on the morals of the people, may we not hope that our excellent constitution will afford a soil, on which the moral and christian virtues will grow, and flourish, and bring forth fruit in abundance ?

THAT this constitution is the genuine choice of the people themselves, and not a government violently or fraudulently imposed upon them, has been evinced by general and unequivocal demonstrations of joy on its establishment; by processions and festivity, in numberless cities, towns, and villages, throughout the United States ; and by voluntary exertions of industry * and magnificence, which no compulsion could have produced. A

E 2

new

* All the machinery exhibited in this grand procession was begun and completed between Monday morning and Thursday evening.

new æra is born to America, and the mighty voice of the people hath fixed the date.

It cannot, I think, be thought improper that an event so great, so interesting, and so glorious, should be recognized in this annual solemnity of the university of Pennsylvania:—barely to recognize it, is all my unexperienced abilities can pretend to; but it has been, and will be, the subject of comment and admiration for those who are more adequate to the pleasing task: and will, I hope, and doubt not, be the source of innumerable blessings to the present and succeeding generations, and the pride and glory of our rising empire.

For

For the Pennsylvania Packet.

I HAVE perused with some attention the several addresses made to the venerable *Doctor Franklin*, by public bodies and private societies on his arrival in this city. So far as they express a sense of gratitude and esteem for his integrity and abilities as a public agent and a philosopher, they have my hearty concurrence and approbation: but they also afford some literary amusement, when considered merely as compositions, with a design of observing the various forms which the same subject matter may assume, in passing through the varied machinery of different pericraniums.

TALKING on this subject with Mr. B. the address of the American Philosophical Society engaged our attention, as distinguished from all the others by a dearth of sentiment, awkwardness of style, and obscurity of expression. I am surprised, said I—but it will be better to give it in the way of dialogue, to avoid a number of said *P's* and said *he's*.

A. I am surpris'd that our Philosophical Society, from whom we might expect, on such an occasion, at least ease and propriety, if not something more, should exhibit so barren, so stiff and costive a performance, as their address seems to be: it must certainly have been seethed too long in the author's brain, and so become hard like an over-boiled egg.

B. I perceive, sir, you are not a member of the Philosophical Society.

A. No sir, I have not that honour.

B. So I thought by your mentioning *brains*. Why, sir, we never make use of any in writing letters, or drawing addresses: we manage these things in quite a different way. How do you imagine our address was produced?

A. Some member, I suppose, was appointed to draft the address, which was afterwards read before the society; and being corrected, was finally approved of, and so delivered.

B. When you shall become a philosopher you will know better: no, sir, we conduct all our business by ballot, as they choose magistrates—ac-
cording

according to the spirit of our excellent constitution.

A. No doubt—when new members, or officers of the institution are to be elected; but how an address can be composed by ballot, I confess, I cannot comprehend.

B. Well, I will inform you. You must know we have four boxes: in one are put a number of *substantives*, the best the dictionary affords; in the second, an equal number of *adjectives*; in the third, a great number of *verbs*, with their *participles*, *gerunds*, &c. and in the fourth, a still greater number of *pronouns*, *articles*, and *particles*, with all the small ware of the syntax. The secretary shakes these boxes for a considerable time, and then places them side by side on a table, each bearing its proper label of distinction. This done, the members proceed to ballot for the composition, whatever it may be; each member taking out one substantive, one adjective, two verbs, and four particles from the boxes respectively; and so they proceed, repeating the operation, until they have drawn the number of words, of which, according to a previous determination, the composition is to consist. Some ingenious member is then requested to take all the ballots or words so obtained, and
 arrange

arrange them in the best order he can. In the present case, this task fell to *****; and you can see how he has worked up the materials which chance threw in his way.

A. In this is your method it will sufficiently account for the short broken sentences, the harshness of the periods, and general obscurity which distinguish your address.

B. What do you mean by *obscurity*? I am sure our address, if not elegant, is at least intelligible.

A. Pray, inform me then, what is meant by this paragraph? "The high consideration and esteem in which we hold your character, so intimately combine with our regard for the public welfare, that we participate eminently in the general satisfaction which your return to America produces;"—and of this—"We derive encouragement and extraordinary felicity from an assemblage of recent memorable events: and while we boast in a most pleasing equality, permanently ascertained," &c. &c.

B. The meaning of your first quotation is, that our high consideration for the doctor, combining and intimately mixing with our regard for the public

lic welfare, occasion a kind of chymical solution or effervescence in our minds, producing a *tertium quid*, which causes us to *participate eminently*; and so on—if you know any thing of chymistry, you would have understood it well enough.

A. Well! it appears to me something very like nonsense: but I confess I am no philosopher.

B. As to the other passage you mentioned—the truth is, we were a little unlucky—it would have been the most elegant paragraph in the whole composition but for an unfortunate accident. You must know, that whilst ***** was arranging the ballots, a puff of wind blew away a number of excellent explanatory words, and carried them out of the window; the whole sentence had like to have gone: a careful search was made in the street, but no more could be recovered than what you see. It was, indeed, proposed to ballot over again for as many words as had been lost: but some members were of opinion, that this might prove a dangerous precedent, and so the passage was suffered to pass as it now stands.

A. I observe further, that you mention “the growth of *sciences* and *arts* ;” would it not have read better, “the growth of *arts* and *sciences* ;”

“*ences*,” according to the usual mode of expression? which has this to justify it, that arts were known and practised before *sciences* were investigated; and besides, the expression is more musical and pleasing to the ear.

B. We had a long debate upon this subject; and the very reasons you now give were urged in favour of the common way of placing those words; but the learned compositor insisted, that as the *sciences* were more obtruse, and more eminent in dignity than the *arts*, they ought to be mentioned first, especially by a philosophical society.

A. This reminds me of what the town clerk says, in Shakespeare’s *Much ado about nothing*.

“To. Cl. Write down that they hope they serve God: and be sure to write God first; for God defend, but God should go before such villians.”

B. It is in vain to attempt explanation to a mind so prejudiced as your’s. I perceive you are determined to find fault, and so let us drop the subject.

A. Why, do you imagine I believe one word of your boxes and your ballots? You are either
ridiculing

ridiculing, or endeavouring to excuse; a performance, which would indeed disgrace a school boy.

WHEN I compare this address with the president's short, but elegant, reply, I cannot but observe how strongly the difference is marked between an author who sits down to think what he shall write, and one who only sits down to write what he thinks.

I

By

BY an act of assembly passed in August or September, 1785, it was directed that at the general elections held in October, the poll should be closed precisely at 8 o'clock in the evening, under a pretence of preventing disorders; but, in fact, with a view to serve the purposes of a party * then in power. This occasioned the following publication. The law, however, took place at the then ensuing election; but the effect turned out quite adverse to the design of those who framed it, and the law was soon afterwards repealed.

TO THE FREEMEN OF PENNSYLVANIA.

FELLOW CITIZENS,

IN the 9th section of our constitution or frame of government it is written —“ The members of
 “ the house of representatives shall be chosen an-
 “ nually by ballot, by the freemen of the common-
 “ wealth, *on the second Tuesday in October for*
 “ *ever.*” And in the last clause of the same section,
 is also written, that the general assembly—“ shall
 “ have no power to add to, alter, abolish, or in-
 “ *fringe* any part of this constitution.”

Now

* Called the constitutional party.

Now I say, and it is most manifest, that our late assembly have, not by implication, but directly and expressly, violated the constitution, and have abridged and infringed the essential right intended to be secured by the 9th section.

THEY have passed a law declaring, that if a free man, however fully entitled to vote, shall come on the second Tuesday in October at 30 seconds after eight o'clock, and offer his ballot, it shall not be received; his right shall be forfeited; his vote shall be illegal, and of no effect—What! because I am old and infirm—because I have not strength to push through a croud, and force a passage through contending parties—because I am a peaceable, modest man, and cannot kick *constitutionalists*, and elbow *republicans*, out of my way, must I be disfranchised? must I be told—“Sir, you are too late—your vote is good for nothing.”—I appeal to the constitution—see, here it is! It says I may vote on the second Tuesday in October—this is the second Tuesday in October—I am qualified to vote, and here is my ticket—“You are mistaken, (say the judges and inspectors) “this is not Tuesday—we are advanced 30 seconds upon Wednesday morning.” How can that be gentlemen? Is not a day at least 12 hours long?—some say 24 hours—“Ay! it “used

“ used to be so formerly ; but the act of assembly has altered that matter, and made the second Tuesday in October but six hours long, viz. from 2* to 8 o’clock.” But, pray gentlemen, here are 40, here are 50, here a hundred citizens want to give in their votes. We are come to exercise the right of freemen ; the right our constitution has given us, according to law—according to the 9th section of our frame of government ; and we think the assembly cannot deprive us of this right—“ No matter : what signifies what you think ? Here is the law ; read it ; you must be disfranchised for this year at least—you have committed an unpardonable offence—you have forfeited your right—you have come 30 seconds after 8 o’clock—Go ! Go home ! eat hearty, and become stout and strong—learn to box, to push, to kick, to swear, to wrangle and scramble, and next year, perhaps, you may stand some chance, but you must not complain now—the law is equitable—it is as good for *constitutionalist* goose, as for *republican* gander—either party may have the benefit of it ; but the strongest will prevail.” But, gentlemen, for God’s sake ! I am neither a goose nor a gander ; I only want to vote. “ Away ! Away ! we will hear no more

* The election seldom opened before two.

more; the act of assembly shuts the door in your face."

BUT, seriously, I look upon this abridgement of the time of voting as a dangerous innovation and direct violation of the constitution. It is calculated to serve party purposes, and to secure the present reigning influence in the seats of power.

LET me suppose a case, not impossible or extravagant—may I not say, not improbable—Suppose a set of judges, or inspectors, or a majority of either, to be strong in the interests of a particular party—Suppose a number of voters of the same party to be collected together, to go early to the place of election, and take possession of all the avenues—will it not be in the power of these judges and inspectors to create what delays they please? to institute scrupulous and tedious enquiries? to make many mistakes, and to be very nice and accurate in rectifying these mistakes? in short, by a thousand artifices, not easily detected, so to spend the time allotted, that others may have little or no chance left? Let the proceedings of next Tuesday be well watched: for myself, I am no party man; but I have impartially considered the conduct of those in power, and have found it such as ought to
alarm

alarm the cool and dispassionate freemen of the commonwealth.

HAVE they not made the constitution a stalking horse to cover their sinister designs? Have they not moulded, and expounded, and twisted it every way (as lord Peter did his father's will) for the advancement of their ambitious views? Have they not reversed and abolished charters without legal cause? Have they not passed *ex post facto* and partial laws, either to serve those they did, or to punish those they did not like? And have they not by their late law disfranchised many hundred citizens of their right to vote at the general election? They certainly have—for I am confident, that let the inspectors, clerks, &c. be ever so industrious and impartial, it is impossible that a contested election can be fairly completed within the time prescribed, viz. from two to eight o'clock; and that, if an account should be taken throughout the state, of those who will be *necessarily* excluded from voting by this law, they will amount to many hundreds. Heretofore, elections have been known to continue two or three days, and the closing of the poll was never attempted till all had a full and fair opportunity. But it seems to be a general scramble now—first come
first

first served—and wo to your eight o'clock gentry.

THE charter and estates of the college were forcibly wrested from the rightful possessors; because, as it was said, the trustees had many years ago passed a rule which seemed to narrow the foundation of that institution: and yet the same men, who were then such rigorous observers of original institutions, can now abridge the time allowed by our frame of government for voting at general elections, and arbitrarily cut away at least one half of that time—and this shall be no offence at all—Lord Peter will expound the constitution, and make all right.

IF my fellow-citizens see this matter in the light I do, they will bring this law to the test, by making the following experiment:—let three or four respectable citizens (having an indisputable right to vote) in each or any of the counties, reserve their tickets till some short time after eight o'clock, and then offer them to the proper officers in the presence of witnesses. If their votes should be refused, as they probably will, let a suit be instituted, and so bring the question to a legal issue: I am persuaded there is no court but will adjudge the act to be illegal and of no force, as to this clause,

because the constitution is paramount to any act of assembly ; and it expressly declares, that the free-men of the state may vote on the second Tuesday in October for ever.

If the assembly have a right to limit the time of voting to eight o'clock, they have the same right to fix it at seven, or six, or three : and so some future assembly may take from us the right of voting altogether, by making the period so short, that, by the time the clerks have ruled their books and mended their pens, the golden moments may elapse, and the minutes of grace pass away.

A curious question in law.—Does the act mean *true* or *apparent* time? For the sun will on that day be 12 minutes too fast : be this as it may, it will be very proper that the state-house clock should be cleaned, and put under good regulation, previous to the election, and that it should be set with great accuracy on the morning of the day (if any morning can be allowed to a day of six hours) by some sworn artist, and in the presence of the judges. But I don't know what they will do in the country, where there are no public clocks : the watches of the judges may happen to go a little too fast, or too slow, according to their judgment of the run of votes. For, let me observe, that ten or a dozen
addi-

additional votes may be of the greatest importance in a contested election, and change the political complexion of the state.*

A. B.

Oct. 5, 1785.

* The effect of this law (as was before observed) turned out contrary to the expectation of the constitutional party who framed it. At the ensuing election, it was manifest when eight o'clock drew near, that the run of votes had been in favour of the republican ticket: soon afterwards a strong body of the constitutionalists came up to vote, but the clock struck, and it was insisted that the election should be closed according to the law. The chief-justice (M'Kean) who was on the ground, was consulted on the occasion, and he gave his opinion, that the election might be kept open for another hour, *to allow for the variation of watches*: but no attention was paid to such an absurd opinion: the doors were closed with great shoutings, and the republican ticket was successful.

F 2 A WORD

WORD OF ADVICE;

OR THE

PENNSYLVANIA ASSEMBLYMAN'S

V A D E - M E C U M.

ALTHOUGH the constitution of Pennsylvania, amongst other good things, enjoins that the people should choose men *most noted for wisdom*, to represent them in general assembly; yet as electors are not always so attentive to this injunction as they should be, it may be presumed that in so promiscuous a body as our general assembly, composed of men collected from every part of the state, there may be some, to whom a word or two of instruction may not be amiss. To such, if any such there should be in our present assembly, the following rules of legislative conduct are submitted.

1st. You

1st. You are to consider your election into the general assembly of the state, as one of the most important events of your life ; because the powers with which the constitution hath invested you, and the duties of your station, are of the most extensive and serious consequences : no less than to bear a part in the framing and establishing of laws, which are to bind the citizens of this great commonwealth : and therefore,

2^d. You are to consider yourself not merely a member for the county which elected you, but a representative of the state at large ; consequently, should the supposed particular interests of that county come in competition with the general interests of the state, you should not hesitate in giving it up : for the public good should be the polar star of your conduct. Members of assembly are too apt to think, that if by their vote or influence they can screen the county in which they live from a share of the public burthen, or procure for it some extraordinary privilege, they will merit great applause from their neighbours, whom they suppose their only constituents. But such narrow principles dishonour the seat of legislation. A commonwealth is one body politic : its division into counties is artificial, and for convenience in the administration of justice, and other good purposes ;

but the true interests of each, and of the whole, are inseparable. Should members of assembly accustom themselves to think otherwise, and boast of advantages gained for a particular county at the expence of the general good, it would be, as if the left hand should boast, that it had cunningly contrived to make the right hand do the most work. If you ought not to consider yourself as the representative only of a particular county; much less are you to suppose that it is your duty to support, at all events, the interests and influence of a designated party. Such a conduct would be a direct violation of your oath of office.

3^d. THE people have vested you *personally* with the power of legislation, and you cannot delegate or assign that power to any other person or persons whatever. Your constituents look for the exercise of *your* judgment, and for *your* vote founded thereon, and not for another's through you. Attend to arguments and opinions, within and without; make full use of every means that may inform your understanding: but when you come to give your vote, let that vote be purely and strictly your own. It would be a wicked prostitution of the trust reposed in you, should you, by any compact with a select number of your brethren, bind yourself to give your voice contrary to your judgment;

judgement: for instance, should you hold private meetings with such select members, and engage with them to give your *aye* or *nay* in the general assembly, on a question to be agitated, according to the determination of a majority of this private assembly,* this would be a very serious and dangerous offence—an offence for which you might be impeached and disgraced.

4th. As the people expect to be governed by laws of your making, it is highly improper to apply to the judges of the supreme court to frame bills for you, or to revise bills already framed; except in cases of mere technical knowledge. Judges should have nothing to do with the making of laws, which they are afterwards to explain and execute. It is a determined maxim in politics, that the legislative and executive powers of government should be kept carefully separate and distinct. How very improper would it be, should a judge, in explaining a disputed point of law, have it in his power to say —I know the intention of the legislature to have been thus, or thus, *for I myself framed and drew this law*. It is always dangerous to suffer the judges to tamper with the laws of the land, in any stage of their process, either in the making or publishing them. Much better would it be for the people

* A known practice of the constitutional party.

people to receive the laws pure from the source of legislation, even though a few technical errors should sometimes occur, than to submit them to be *revised, corrected, and amended* by the learning of the bench, especially in a constitution which admits but of one branch of legislature. Should an occasion happen wherein the house would wish to be informed on a mere point of law, the proper way is, to state queries in writing, and send them to the judges for their answer: but on no account should a bill of the house be submitted to their correction. The judges already have a very formidable influence in the execution of the laws: if, by custom, they should acquire a like influence over the making of them, the people would be exposed to all the dangers of an absolute government, without even the small security of responsibility. If the same officious hands are to cook the broth, and make us sup it, we shall soon have reason to complain of scalded mouths and sick stomachs.

5th. As it is of the greatest importance that the acts of the legislature, and the minutes of the house, should be preserved pure and unadulterated, it may not be amiss to keep a watchful eye over the clerk of the house, as it is much in his power to play tricks with the laws, minutes, and papers of the assembly, should he be so disposed

fed. To prevent this, it is your duty to see that the laws, as soon as enacted, are faithfully and immediately lodged in the roll's-office, and upon no account suffer the clerk to take them to his own lodgings. After the seals have been affixed to a law, the house, or a committee of the house, should never lose sight of it, till it is safely lodged with the recorder.

You should also take care that the votes of the house are, in due time, entered fairly on the book of minutes, and compared with the rough drafts ; and that the printed copies be compared with, and corrected by, the fair entries ; *and not the fair entries made from the printed Minutes.*

You should frequently inspect the files of the house to see that the papers are properly arranged and endorsed ; for this will enable you to detect the clerk in case he should attempt to withdraw, secrete, or destroy any of the papers entrusted to his care. And it would not be a miss if you should now and then take up a return, petition, or other paper, which the clerk hath been reading to the house, to see whether he has given it a faithful reading or not. These attentions are proper, can give no just cause of offence, and will keep the clerk strictly in his duty.

THE

6th. There are some members in every assembly who are not qualified to make a figure on the floor. These may nevertheless well answer the purpose of their appointment, and discharge the trust reposed in them, by a conscientious exercise of judgement, firmness of mind, and integrity in voting. There are others who can add to these qualities the talents of eloquence, reasoning, and persuasion. Should you be of the former description, give all possible attention to the arguments urged for and against the point in question; but in order to guard against the impositions of sophistry, the fallacy of which you may not have ingenuity enough to detect, together with the arguments, take into consideration the character of the speaker. If you have observed and know him to be a man of an open, candid, and independent spirit, you may with the more safety yield to the impressions his eloquence shall make; but if you have reason to believe that he is subtle, selfish, and crafty, or that he is either the tool or the ring leader of a party, hear him with jealousy, and risk no more than what strong conviction will justify. At all events, let no reasoning, however ingenious, induce you to give your vote contrary what you *feel* and believe to be for the promotion of general justice and the public good. There is in every

every good mind an internal sense of right and wrong, which you may safely depend upon, even though your understanding should not be highly illuminated: and it will be better to run the risk of an error of judgement than not to vote according to this internal sense. There cannot be a more contemptible situation, than for a man so highly intrusted to resign himself implicitly to the government of another in the very business for which he was so intrusted. Since the public voice has placed confidence in you, you ought to have confidence in yourself.

SHOULD you be one of those who are accustomed to public speaking, and qualified to take a part in the debates of the house, guard against a habit of opposition, which may insensibly grow upon you. In questions of trivial importance be content with voting according to your judgement, and reserve your powers of elocution for great occasions. Let not the vigour of debate ever push you beyond the bounds of civility, or induce you to infringe the rules of the house; and never suffer your temper to be unhinged—If you do, your opponent will gain an advantage over you, which perhaps, neither the subject of debate, nor his arguments thereupon, would have given him.

LASTLY—Never suffer a desire of displaying your abilities, nor a thirst for victory in debate, to lead you astray from what ought to be the ultimate object of the official conduct of every member of the legislature—*The promotion of general justice and of the public good.*

A CITIZEN.

November, 5, 1785.

OBSER-

OBSERVATIONS ON THE BILL ENTITLED "AN
ACT FOR AMENDING THE PENAL LAWS
OF THIS STATE."

THE bill published for consideration, entitled "an act for amending the penal laws of this state," will probably be taken up before long, in order to be passed into a law.

So great a revolution in the municipal law of our country, ought not to take place without due consideration on the part of the legislature, and such attention to the subject by the citizens at large, as the importance of it seems to require.

I have daily looked for some strictures on this bill in our public papers, and am surprised to find that it hath hitherto passed unnoticed. Whenever a public act is likely to interfere with the interests or views of any set of men, or party, all hands go to work, and we are distracted with arguments *pro* and *con*; but measures which have
not

not that immediate tendency, however replete with remote mischief, are too frequently neglected, although a little timely exertion might prevent evils which, when they arrive, cannot easily be removed.

A report has been lately made to the house, recommending an abridgement of the fees and salaries of public officers. Immediately the whole fraternity is in an uproar—the craft—the craft is in danger! At the head of the malecontents, with solemn step and stately stride, appears the profound and formidable *Jurisperitus*, sounding forth his own praise, as with a brazen trumpet, and loudly descanting on his vast abilities and unparalleled services. One might suppose, from his account, that if the gentlemen at present in office should be affronted, and throw up their commissions, the whole commonwealth could not furnish another set of equal wisdom, integrity, and sound whiggism.

THE lamentable outcry of *Jurisperitus* has led me to consider the bill under consideration, only in one point of view, viz. the enormous power it will vest in the judges of the supreme court, in addition to those other powers which have been
from

from time to time accumulating in their hands: Let us look at the list which *Jurisperitus* hath himself enumerated.

BESIDES the great power and influence necessarily attendant on the office of chief justice—" he
 " is, by virtue of that office, * judge in the high
 " court of errors and appeals ; a judge of the
 " court of admiralty sessions for the United States
 " of America ; a judge of the court of admiralty
 " sessions for this state, and a trustee of the uni-
 " versity. He is also to decide upon all claims
 " against estates forfeited to the commonwealth,
 " and the forfeiting persons ; and has power to
 " perpetuate testimony ; take care of the persons
 " and estates of ideots and lunatics ; and is to de-
 " termine all causes relating to alimony and di-
 " vorce." To this catalogue our present assembly have added an act to empower the justices of the supreme court to supply defects in the titles to lands, occasioned by the loss of deeds, &c. and the now proposed bill for amending the penal laws, will give them a power to punish criminals according to their discretion, within the limits of fourteen years cruel servitude.

WHEN

* He should have said by virtue of special acts of assembly, or an ordinance of congress.

WHEN we consider the sum total of power, and of course of influence, thus insensibly accumulating in the hands of two or three individuals, it seems highly expedient that government should not only avoid further delegations of special powers ; but keep a watchful eye over the exercise of those already delegated.

THERE is not, in our system of jurisprudence, a more formidable body of operative power than that vested in the judges of the supreme court. The executive council, and house of assembly, are composed of many individuals, and these liable to annual changes ; but the judges are few in number, and permanent in office for seven years at least, and hold their commissions, as *Jurisperitus* observes, in fact, during good behaviour. The exact time at which a judge's commission expires, is not matter of public notoriety : when this happens, it may be renewed in so secret and speedy a manner by his friends in council, that before those who may have been injured by mal-administration can make complaint, or the people have an opportunity of expressing their disgust, if any there should be, the judge is re-instated, and then no dog must bark. Excessive power has a natural tendency to debase the best disposition ; but when it falls into the hands of a proud, capricious, and ambi-

sious man, its operation should be watched with a jealous eye.

THE effect of the proposed alteration in the penal laws, will be to invest the judges of the supreme court with a *discretionary* power to punish within certain limits. This is, in fact, vesting them with legislative authority within those limits. It is a distinguishing mark of a free government, that the people shall know before hand, the penalty which the laws annex to every offence; and, therefore, such a system is called a government of laws, and not of men. But within the scope of the present bill, no offender can tell what his punishment is to be, till after conviction. The *quantum*, at least, is to be determined by the particular state of mind the judge happens to be in at the time of passing sentence. Vexations and disappointments may send his honour to court in a very ill humour, and then wo to the culprits.

“THE knowledge of this part of jurisprudence
 “(says Blackstone, vol. IV. p. 2.) which teaches
 “the nature, extent, and degrees of every crime,
 “and adjusts to it its adequate and necessary pe-
 “nalty, is of the utmost importance to every in-
 “dividual in the state. For, (as a very great
 VOL. II. / G “ master

“ master of the crown law * has observed upon a
 “ similar occasion) no rank or elevation in life,
 “ no uprightness of heart, no prudence or circum-
 “ spection of conduct, should tempt a man to con-
 “ clude that he may not at some time or other be
 “ deeply interested in these researches. The in-
 “ firmities of the best amongst us, the vices and un-
 “ governable passions of others, the instability of
 “ all human affairs, and the numberless unforeseen
 “ events which the compass of a day may bring
 “ forth, will teach us, upon a moment’s reflection,
 “ that to know *with precision* what the laws of
 “ our country have forbidden, and the deplorable
 “ consequences to which a wilful disobedience
 “ may expose us, is a matter of universal con-
 “ cern”—“ The criminal law (p. 3.) should be
 “ founded upon principles which are *permanent,*
 “ *uniform, and universal.*”

How seriously applicable these maxims and ob-
 servations are in a government, which, from the
 nature of its constitution, must ever be exposed to
 the virulence of contending parties, will be ob-
 vious to every one. Under such a government,
 no judge should be trusted with *discretionary* pow-
 er in the administration of penal law. There is
 sufficient reason to believe, that a scarlet robe is
 not

* Foster.

not a certain security against the operation of party influence, petulance of temper, or an ambitious thirst of power.

THERE is no reading the bill in question, without observing, that the burthen of the song is, *the discretion of the court* ; such and such crimes shall be punished with a servitude not exceeding fourteen years, *at the discretion of the court* ; such others, not exceeding seven years, *at the discretion of the court* ; and so on, in almost every section. And, finally, the 15th section gives to these *discreet* judges a power to determine on the reformation of the punished party, and to grant or refuse him, at their discretion, a certificate, announcing to all men, that he is actually so reformed. Which certificate is to operate as a legal “ discharge
“ from all claims and demands of the party injured,
“ and also as a pardon of the guilt and infamy of
“ the offence, and give the party a new capacity
“ and credit.” The thing would have been complete if the act had given these demi-gods a power of granting religious absolution, as well as temporal restoration.

THERE are some crimes of such infamy, that the stain is not wiped off by the party's suffering the penalty of the law. One who has stood in

the pillory for perjury, cannot afterwards serve on a jury. But the effect of a pardon is to restore him, in the eye of the law, to the same credit he had before the accusation (except only in cases where the blood is attainted). The power of pardon is lodged, in England, (other than in cases of impeachment) exclusively in the crown: and, in Pennsylvania in the executive council. But, by this bill, the power of pardon, after punishment, is vested in the same men who awarded the penalty—a power incompatible with the genius of the common law, or the common rules of political prudence.

THE common law of England abhors the trusting judges with a discretionary dispensation of punishments; most of the instances wherein they are so intrusted are by virtue of special acts of parliament, and ought to be considered as exceptions to the general rules of common law. This reliance on the discretion of judges cannot safely be extended to matters of so serious import, as the awarding a severe and disgraceful servitude within the large limits of fourteen days to fourteen years; and afterwards granting a pardon, with all its legal operations, or with-holding it, according to the caprice of the judge, who, like our present chief justice, may be only *a man*, and not *a God*, notwithstanding

withstanding the inherent virtues of his commission.

I am far from objecting to the general intent of this bill : I think, with the assembly, that the British criminal law, which hath hitherto been our model, is by much too sanguinary, and has annexed punishments to crimes in very undue proportions—proportions not drawn from policy, reason, or equity. But this bill, if passed into a law, will make the matter worse than before. I acknowledge, that under the system proposed by this bill, a discretionary power must be lodged somewhere, and think it can no where be lodged so safely as with the jury who find the fact. The proportion of punishment, equitably due according to the nature of the offence, is not a question involved in the technical subtleties of the law ; but arises from the particular circumstances of the case, all things considered ; and an honest, impartial, and conscientious jury, are as competent to this purpose, as the most profound judge. They will necessarily have heard the state of the whole matter, with the arguments for the prosecution, and in behalf of the prisoner ; and being a temporary body, accidentally brought together, and impanelled for the occasion, are more likely to do substantial justice, than a judge who is so hackneyed

in criminal prosecutions, as to consider a citizen accused and not convicted, as a cause stifled, * or lost to the commonwealth.

If juries were so entrusted, they would probably hold their office in higher estimation than they do now : they would spurn at the idea of their being † *legal machines*, subject to the management of the court : and feeling themselves competent to the business, would execute their duty with dignity, propriety, and good conscience.

As juries determine the *quantum* of damage in a civil action, there seems to be no reason why they should not also determine the *quantum* of punishment in a criminal process, within such limits as the law shall prescribe.

Why should the legislature assign so large and dangerous a field of power to judges, because of their supposed law knowledge, in a matter where law knowledge can be of no possible use ? For, after the fact has been fairly found, the subtleties of law are at an end, at least they have nothing to do with the intrinsic demerit of the offence.

I have

I have been told, and I believe it is so, that one of the judges framed this bill; no wonder then that the chorus of the song should be—*at the discretion of the court*: I wish they would get the court of admiralty to set these pleasant words to music; it would delight their honours much, if they have any ears for music, but I am told they have none; they would, however, strain hard to bear a bob in the burthen of so charming a song.

REASONABLE objections may perhaps be made to the vesting even a jury with such enormous power. If so, I cannot see why the general intent of the bill may not be answered by annexing to the several crimes, as heretofore defined in law, periods of servitude, fixed and ascertained according to enormities of their respective offences; and so make our penal laws less sanguinary. If the portionment of punishment should not in all instances be strictly equitable, they will at least be *certain* and *known*; and council may pardon or reprieve, in particular cases, when circumstances shall make such an interference proper and just.

I sincerely wish this subject may be taken up by some abler hand. It is time to be alarmed at the vast power gradually accumulating in the hands of

two or three individuals. When we see judges becoming professed and busy partymen: when we see them constantly interfering in the business of the legislature: influencing members of assembly: drawing reports for committees, and framing bills for the house: usurping jurisdiction not given them by law: expounding acts of assembly with dictatorial authority at improper times, and in improper * places; and working every engine to promote their own power and influence—I say, when we see these things, we see *symptoms* of a growing tyranny, strong as *Bunbury's symptoms of horsemanship*: we see that the discretion of such men ought not to be so largely trusted. If this act should take place, the form of our government will in effect be changed—It will no longer be *republican* it will be *despotic*, at least within the field of criminal jurisprudence, which is a large and important field. For what is depotism? but a discretionary use of power, without being legally amenable for the just exercise of it. In this situation will our judges be by virtue of this act. For who shall call them to account? If they should

* At the general election in October last the chief justice, expounding the law to the judges of the election, told them that although the law directed the business to be closed, and the doors to be shut, at eight o'clock, yet they might go on till nine, *to allow for the variation of watches.*

should award one man four weeks, and another fourteen years punishment for the same offence—for a crime of the same enormity, under all circumstances, will an action lie against them, or can they be impeached for the injustice? Surely not—The legislature having vested them with *discretionary* powers, they will be the sole judges of that discretion.

It is time to look about—Our assemblies have been too much disposed to look upon the supreme court as a reservoir for all power, which they knew not where else to lodge. Let them take care that this reservoir does not overflow, and deluge them, with their rights and liberties.

I hope my fellow citizens will see the danger of the proposed act for amending the penal laws of the state: that these observations will induce some other hand to take up the subject; and that every one will join in checking the exorbitant power of the supreme court

JUS.

April. 1780.

For

For the Pennsylvania Packet.

I OBSERVE by the paper of this day, that Wednesday next is appointed by our house of assembly for taking up the bill called *the penal law*, which has been published for consideration, and is now ripe for the forms of legislation. This bill seems to be of very serious importance in the jurisprudence of our commonwealth. Innovations are always to be suspected, and prudence dictates that novelties, under the guise of improvement, should be strictly scrutinized, lest an ostensible benefit should serve as an introduction to many overballancing evils. But I trust that our representatives will proceed with proper caution in a measure which will not only change the long established system of penal laws, but will, in effect, amount to a transfer of the great power of apportioning punishments to crimes from the sovereignty of the state, where it certainly ought to be, to two or three individuals, where it certainly ought not to be.

I heartily approve of the general purpose of this bill, in making penal laws less sanguinary, by substituting periods of disgraceful labour in the room of fatal executions and corporal punishments ; but in as much as it leaves the apportionment of these periods to the discretion of the supreme court, it is a bill pregnant with dangerous consequences, and establishes a despotic form of government within the field of its operation. For, true despotism is nothing more than a power to punish according to will and pleasure.

TRUE it is, that our legislature still reserves the right of ascertaining the crime ; but if the degree of punishment is to be determined by the will of the court, it may not be long before some learned judge will enlarge on the inconvenience of the legislature's troubling itself with such matters, and prepare a bill for investing himself, and his brethren, with the whole dispensation of criminal law.

IN a government like ours, it is highly necessary to be watchful over the movements of those in whom we confide—much more so than in governments less free ; because those in whom we trust have the all powerful sanction of the people at large for whatever they do within the precincts
of

of legal power, and it is certainly within these limits to ruin us according to law.

OUR assembly have undoubtedly a right to enact this bill into a law—Let us indulge imagination in, at least, possible consequences should it be enacted.

OUR judges have unavoidably an official influence over the petit jury in criminal trials. They also recommend to council for pardon, when they think fit, and the council not only never execute against their recommendation; but, as I am told, seldom pardon without it. And now, by this bill, they are to be empowered by law to apportion punishments to crimes according to their own discretion. By their means the severities of law and the high prerogative of mercy will be vested in the same individuals—In men subject to passions and prejudices, are unfit to be so highly trusted.

SUPPOSE a case—*A* and *B* have committed precisely the same offence, viz. Burglary. *A* has respectable connections and friends; *B* has none. *A*'s friends are not only respectable, but they happen to be of the same party in the politics of the state with his honour: or they belong to

the same religious congregation. *B* is a foreigner ; he has no friends or connections ; or, if he has, they are of the adverse party to the judge—may we not suppose the discretion of the court would exercise itself very differently with respect to these criminals, however equal their demerits ? A few days may serve to expiate the crime of *A* ; but *B* must labour fourteen years for not having better friends and more powerful influence in his favour. This may seem too strong a case ; but it is no more than what the law will justify. Any specious reasons for such a discrimination will be sufficient to excuse the judges as men, for what they may do as officers, under the law.

If it did not appear from the face of this bill that it is a direct violation of our constitution, by making our government a government of men, and not of laws in criminal cases ; yet the quarter from which it originated ought to raise a virtuous jealousy in the minds of the people. It is a dangerous symptom when we see men, already high in power, grasping still at more, and ever devising ways and means to encrease their official influence.

To point out all the evils, and political solecisms of the bill under consideration, would require more time, and more law knowledge, than I can command ;

command ; but I am confident that such an establishment will be injurious to the security and justice intended by the common law, and subversive of the spirit of our free constitution.

I hope our legislature will not hastily part with so high a prerogative of sovereign power, or subject the citizens of this state, who may hereafter offend, to be punished at the discretion of the judges.

I conclude with an extract to the purpose from 4 Black. ch. 29. pa. 377.

“ It is, moreover, one of the glories of our
 “ English law, that the nature, though not always
 “ the quantity or degrees *, of punishment, is as-
 “ certained for every offence ; and that it is not
 “ left in the breast of any judge, or even of a
 “ jury, to alter the judgement which the law has
 “ beforehand ordained for every subject alike,
 “ without respect of persons. For if judgments
 “ were to be the private opinions of the judge,
 “ men would then be slaves to their magistrates,
 and

* This respects pecuniary fines, which, as the author afterwards explains, cannot be fixed precisely by law, but must vary according to the nature of the offence, the abilities of the offender, and other circumstances.

“and would live in society without exactly
 “knowing the conditions and obligations which
 “it lays them under. And besides, as this pre-
 “vents oppression on the one hand ; so, on the
 “other it stifles all hopes of impunity or mitigation
 “with which an offender might flatter himself, if,
 “his punishment depended on the humour or
 “discretion of the court. Whereas, where an
 “established penalty is annexed to crimes, the
 “criminal may read their certain consequence in
 “that law which ought to be the unvaried rule,
 “as it is the inflexible judge, of his actions.”

X.

August, 28, 1786.

A SUIT

A SUIT IN THE HIGH COURT OF HONOUR.*

AT a court held on the 27th of April Anno Domini 1781. Present, the honourable the judges of the said court, in their robes, and the officers in their respective places—*A. B.* clerk of the said court, notified to their honours, that a libel had been filed by *F. H.* versus *J. W.* Esq. and humbly prayeth the leave of the court to exhibit the said libel : and then, with the consent of their honours, he proceeded to read the same with
an

* THIS piece of humour was founded on the idea of establishing a high court of honour (See vol. I. page, 151), and accidentally occasioned the following singular

ANECDOTE.

THE piece had been inclosed in a cover, addressed to *James Wilson* Esq. for whom it was designed, and sent to his house. Mr Wilson not being at home, his servant received the packet, and stuck it behind the parlour looking glass. Cap. †††† who was frequently deranged in his mind, and at such times full of notions of plots and conspiracies, went into Mr Wilson's parlour without knocking

an audible voice in manner and form following ;
that is to say.

Philadelphia. ff.

To the honourable X. Y. Z. judges of the high
court of honour.

F. H. of the city of Philadelphia, gentleman, in
all humble manner, complaining, sheweth, and
doth by this present libel, aver, declare, and say,
that his worthy and esteemed friend Y. W. of the
same city, esquire, is a rogue, a rascal, a villain, a
scoundrel, a liar, a thief, a rascalion, a tatterde-
mallion, a ninkumpoop, and a skunk * : that he is a

VOL. II.

H

blasphemer

knocking when none of the family happened to be there ; and
seeing the packet in the frame of the looking glass took it down
and went off with it.

THERE was at this time a cause agitated in the supreme court
of great popular attention, in which *Mr Wilson*, and most of the gen-
tlemen of the bar, were engaged.

THE next day I went to court, and happening to be seated near
Mr. Wilson, I asked him if he had received my packet ; he told
me he did not get home till late in the evening ; that the servant in-
formed him there had been a letter for him, and that he had put
it behind the glass ; but that it had all at once disappeared, and no
body could give any account of it, although enquiry had been
made through the whole family.

WHILST we were thus talking, a cry of, make way there !
was heard in the court, when capt. ††††, having pushed his
way

* See vol. I. p. 155.

blasphemer of God, a reviler of man, a deist, an atheist, a Turk, a Jew, and an infidel: that he ought to be whipped, cropped, pillored, banished, hanged, drawn, and quartered: that he is a tory, a speculator, a peculator, a prater, and a traitor: that he ought not to live upon the face of the earth amongst so many good, honest, and well disposed persons as this city is known to contain. And your libellant doth further declare and say, that all these, the aforesaid appellations, asseverations, and declarations against him, the said J. W. are meant and intended, and ought to be taken *in the most opprobrious sense of the words*: The truth of which he the said F. H. libellant, as aforesaid,

way through the crowd, appeared before the bar with papers in his hand. He interrupted the lawyer who was then speaking, and informed the judges that he had papers in his hand which would immediately clear up and determine the cause before the court; and that he had also discovered a most horrible and dangerous plot, partly against the state, and partly against the judge of admiralty: confessing that he had made this great discovery by breaking into and robbing that gentleman's house, pointing to Mr. Wilson; declaring that so far as he was amenable for the robbery, he stood ready to submit to the laws.

THE papers, which I immediately knew to be mine, were handed up to the bench, and the chief justice was preparing to read the contents aloud to the court; but I forced my way to him, and and whispered him, that it was only a piece of literary sport between Mr. Wilson and me, and very unfit for the public ear on such an occasion. The papers were then delivered to Mr. Wilson, and the audience assured that they did not concern the present cause.

said, is ready to verify and make manifest to this honourable court: and thereupon he prays, that the said *J. W.* esq. may, by the definitive sentence of this honourable court, be condemned to have his name entered in the book of record, called *rascal's record*, there to be and remain with infamy in *secula seculorum*; so prays.

F. H.

WHEREUPON it is ruled and ordered, that a certified copy of the foregoing declaration and libel be served on the said *J. W.* esq. in order that he may file his defence and answer thereto.

AFTERWARDS, to wit, on the 23^d day of April, in the year aforesaid, the said *J. W.* esqr. cometh and defendeth himself against all and every the manifold slanders, defamations, appellations, and untruths in the said libel contained, and doth call upon, challenge, and demand of the said *F. H.* that he forthwith prove and establish, by good and sufficient testimony before this honourable court, some one or more of his slanders aforesaid; and the said *J. W.*, respondent as aforesaid, doth further pray and demand, that if the said *F. H.* shall fail in proof thereof, that the name of the said *J. W.* may be erased and expunged from all and every

part of the said libel, and of the record thereof, and the name of him the said *F. H.* be inserted in the place or places thereof: and that the name of him the said *F. H.* may be entered on the *rascal's record*, according to the constitution and laws of this honourable court—So answereth,

J. W.

ET postea, scilicet 26^{mo} Aprilis prædicta *F. H.* in curiam venit, et sustentat, et probat declarationem ejus, et facit bonum asseverationes et vilificationes ejus contra eundem *J. W.* et super hoc dat curiæ hæc honorabili intelligere quod biennium, vel juxta, est quod commodavit prædicto *J. W.* unum librum vel libellum intitulatum *Epistolæ obscurorum virorum* plenum funni; et quicumque legit in eodem libro ridebit multum et pinquescebit; et quod bonum et necessarium est pro salute corporis et etiam mentis habere et legere in isto libro: Et prædictus *F. H.* super verbum et honorem ejus declarat et dicit quod frequenter et sæpissime postulavit eundem librum intitulatum ut prædictum, a prædicto *J. W.*: et quod prædictus *J. W.* non curans pro salute vel jucunditate vel solamine prædicti *F. H.* non vult eundem libellum

lum reddere ad eum, ut in vera honestate debet facere; sed vi et armis, contra legem, contra bonam fidem et justitiam detinet eundem, ad grave et terribile damnum prædicti F. H. Per quam causam prædictus F. H. dicit et ostendit hæc curiæ honorabili, quod valde macefcit, et timet quod prius longum tempus erebit nil nisi pel- lis et ossa et quod non potest ridere sæpius quam semel vel bis in mense, et qui nunquam ridet, nunquam pinguescebit; ergo, super fidem et verita- tem credit quod prædictus J. W. voluit ponere eum ad mortem. Ergo, damat in curia hac hono- rabili contra prædictum J. W. et accusat eum, et dicit et protestat quod iste J. W. est rabscallianus, tatterdemallianus, ninkumpoopus, et *skunkus*, et quod oportet esse ita recordatus; ut omnes ho- mines maledicant eum in secula seculorum.

WHEREUPON, curia vult advisare, and now on the 27th of April aforesaid, judgement is given a- gainst the respondent, Nisi, &c. That is to say, unless he the said J. W. shall, bona fide, restore and deliver the said book, entitled *epistolæ obscurorum virorum*, to him the said F. H. on or before the 5th day of May next ensuing. But and if the said J. W. shall, and do well and truly restore the said book to the libellant in this cause, on or before the 5th

day of May, then the said parties shall withdraw their several pleas, replications, and rejoinders from this court, so that the same may not be, or appear on the records thereof.

WHEREUPON the court adjourned, *sine die*.

▲ LETTER

A

L E T T E R

TO THE

REV. DOCTOR WHITE,

RECTOR OF CHRIST CHURCH AND ST. PETER'S ON THE
CONDUCT OF A CHURCH ORGAN.

I AM one of those who take great delight in sacred music, and think, with royal David, that heart, voice, and instrument should unite in adoration of the great Supreme.

A soul truly touched with love and gratitude, or under the influence of penitential sorrow, will unavoidably break forth in expressions suited to its feelings. In order that these emanations of the mind may be conducted with uniformity and a becoming propriety, our church hath adopted into her

her liturgy, the book of psalms, commonly called *David's Psalms*, which contain a great variety of addresses to the Deity, adapted to almost every state and temperature of a devout heart, and expressed in terms always proper, and often sublime.

To give wings, as it were to this holy zeal, and heighten the harmony of the soul, *organs* have been introduced into the churches. The application of instrumental music to the purposes of piety is well known to be of very ancient date. Indeed, originally, it was thought that music ought not to be applied to any other purpose. Modern improvements, however, have discovered, that it may be made expressive of every passion of the mind, and become an incitement to levity as well as sanctity.

UNLESS the real design for which an organ is placed in a church be constantly kept in view, nothing is more likely to happen than an abuse of this noble instrument, so as to render it rather an obstruction to, than an assistant in, the good purpose for which the hearers have assembled.

GIVE me leave, sir, to suggest a few rules for the conduct of an organ in a place of worship, according to my ideas of propriety.

Ist. The

1st. The organist should always keep in mind, that neither the time or place is suitable for exhibiting all his powers of execution ; and that the congregation have not assembled to be entertained with his performance. The excellence of an organist consists in his making the instrument subservient and conducive to the purposes of devotion. None but a master can do this. An ordinary performer may play surprising tricks, and shew great dexterity in running through difficult passages, which he hath subdued by dint of previous labour and practice. But *he* must have judgement and taste who can call forth the powers of the instrument, and apply them with propriety and effect to the seriousness of the occasion.

2nd. The voluntary, previous to reading the lessons, was probably designed to fill up a solemn pause in the service ; during which, the clergyman takes a few minutes respite, in a duty too lengthy, perhaps, to be continued without fatigue, unless some intermission be allowed : there, the organ hath its part alone, and the organist an opportunity of shewing his power over the instrument. This, however, should be done with great discretion and dignity, avoiding every thing light and trivial ; but rather endeavouring to compose the minds of the audience, and strengthen the tendency of the heart

heart in those devout exercises, in which, it should be presumed, the congregation are now engaged. All sudden jerks, strong contrasts of *piano* and *forte*, rapid execution, and expressions of tumult, should be avoided. The voluntary should proceed with great chastity and decorum; the organist keeping in mind, that his hearers are now in the midst of divine service. The full organ should seldom be used on this occasion, nor should the voluntary last more than *five minutes* of time. Some relaxation, however, of this rule may be allowed, on festivals and grand occasions.

3^d. The *chants* form a pleasing and animating part of the service; but it should be considered, that they are not songs or tunes, but a species of *recitative*, which is no more than speaking musically. Therefore, as melody or song is out of the question, it is necessary that the harmony should be complete, otherwise *chanting*, with all the voices in unison, is too light and thin for the solemnity of the occasion. There should at least be half a dozen voices in the organ gallery to fill the harmony with bass and treble parts, and give a dignity to the performance. Melody may be frivolous; harmony, never.

4th. The

4th. The prelude which the organ plays immediately after the psalm is given out, was intended to advertise the congregation of the psalm tune which is going to be sung; but some famous organist, in order to shew how much he could make of a little, has introduced the custom of running so many divisions upon the simple melody of a psalm tune, that the original purpose of this prelude is now totally defeated, and the tune so disguised by the fantastical flourishes of the dexterous performer, that not an individual in the congregation can possibly guess the tune intended, until the clerk has sung through the first line of the psalm. And it is constantly observable, that the full congregation never join in the psalm before the second or third line, for want of that information which the organ should have given. The tune should be distinctly given out by the instrument, with only a few chaste and expressive decorations, such as none but a master can give.

5th. The interludes between the verses of the psalm were designed to give the singers a little pause, not only to take breath, but also an opportunity for a short retrospect of the words they have sung, in which the organ ought to assist their reflections. For this purpose the organist should be previously informed by the clerk of the verses

to be sung, that he may modulate his interludes according to the subject.

To place this in a strong point of view, no stronger, however, than what I have too frequently observed to happen; suppose the congregation to have sung the first verse of the 33^d psalm.

“ Let all the just to God with joy
Their chearful voices raise;
For well the righteous it becomes
To sing glad songs of praise.”

How dissonant would it be for the organist to play a pathetic interlude in a flat third, with the slender and distant tones of the echo organ, or the deep and smothered sounds of a single diapason stop?

Or suppose again, that the words sung have been the 6th verse of the vith psalm.

“ Quite tired with pain, with groaning faint,
No hope of ease I see,
The night, that quiets common griefs
Is spent in tears by me”—

How

How monstrously absurd would it be to hear these words of distress succeeded by an interlude selected from the bag end of some thundering figure on a full organ, and spun out to a most unreasonable length? Or, what is still worse, by some trivial melody with a rhythm so strongly marked, as to set all the congregation to beating time with their feet or heads? Even those who may be impressed with the feelings such words should occasion, or in the least disposed for melancholy, must be shocked at so gross in propriety.

THE interludes should not be continued above 16 bars in *triple*, or ten or twelve bars in *common* time, and should always be adapted to the verse sung: and herein the organist hath a fine opportunity of shewing his sensibility, and displaying his taste and skill.

6th. The voluntary after service was never intended to eradicate every serious idea which the sermon may have inculcated. It should rather be expressive of that chearful satisfaction which a good heart feels under the sense of a duty performed. It should bear, if possible, some analogy with the discourse delivered from the pulpit; at least, it should not be totally dissonant from it. If the preacher has had for his subject, penitence
for

for sin, the frailty and uncertainty of human life, or the evils incident to mortality, the voluntary may be somewhat more chearful than the tenor of such a sermon might in strictness suggest; but by no means so full and free as a discourse on praise, thanksgiving, and joy, would authorize.

In general, the organ should ever preserve its dignity, and upon no account issue light and pointed movements which may draw the attention of the congregation and induce them to carry home, not the serious sentiments which the service should impress, but some very petty air with which the organist hath been so good as to entertain them. It is as offensive to hear lils and jiggs from a church organ, as it would be to see a venerable matron frisking through the public street with all the fantastic airs of a *columbine*.

S U R V E Y I N G.

I HAVE been long urged by an invincible property to attempt some thing for the public good, or public convenience, so as to render my name famous amongst the benefactors of mankind. As my desire is much stronger than my abilities, I am obliged to be content with humble attempts at discoveries of limited importance ; for I confess that my genius is not of the highest rank.

THE project which has lately employed my thoughts, and which I am now about to communicate, will not be valued as conducive to the happiness of mankind in a serious sense ; yet I hope the novelty of the design, and its affording a considerable gratification at a very small expence, will entitle me to some reputation with the public : especially when it shall be considered, that I do not, like other projectors and discoverers, make an emolument of my ingenuity, but freely give the fruits of my speculations to my beloved fellow citizens,

in

in the first place, and through to them, to the world at large.

I have frequently thought that the arts and sciences might be extended beyond the limits of their professed objects, and applied with advantage to other purposes than those for which they seem directly intended. I remember that when I was a boy, my father saw me boring a hole with the leg of my compasses, for which he reproved me, and advised me never to use a thing in a way which it was not designed—But *Dr. Franklin*, who was present, declared himself of a different opinion; and said he had often admired the dexterity of a servant who would occasionally sweep the hearth with the bellows, and blow the fire with the hearth-brush.

I once saw an elaborate work of an ingenious Frenchman, by which any person was enabled to compose an infinite number of minuets without the least knowledge of music, or any other instrument, but a box and dice.

THIS readiness in applying things to purposes for which they seem not designed has often been of the greatest importance in cases of extremity. The adventures of *Robinson Crusoe*, and

the histories of perilous voyages and ship-wrecks, afford innumerable instances of the great advantage of such a talent.

I am by profession a *surveyer* ; not indeed of the first rate reputation, yet I can execute my business with tolerable accuracy, and have given satisfaction to my employers. I, not long since, surveyed a tract of land, the boundaries of which were so singular, that when I came to plot the lines and courses from my table book, I was surprised to find that the survey exhibited the lines of a human face. This suggested to me the idea of applying the art of *surveying* to the purpose of *portrait painting*—Only consider, candid reader, what an advantage this must be to the world—Who is there that does not wish to see a true and faithful likeness of those eminent personages he reads of in history ? Their actions indeed are recorded ; but these may appear in very different lights to different people, and admit of very various comments, for want of knowing the secret motives which influenced those actions. Now there is no better way known, of ascertaining a man's intrinsic character, than by the indication of his countenance : hence the science of physiognomy, and the great encouragement *portrait painting* hath found. But painting on canvass is very expensive,

pensive, and original likenesses very scarce. As to *engravings*, they are by no means to be depended upon ; every copyist varies more and more from the original : so that by the time a man has been dead forty or fifty years, however eminent he may have been, the prints bearing his name, are no more like him, than the sign of the king of Prussia in third street is like that monarch. The thing should be brought to a *mathematical* certainty. And this, I flatter myself, I have been so lucky as to accomplish.

THE operation is quite easy, both to the party and to the artist. There is nothing more necessary than to take a correct outline of the person's profile, by throwing the shadow of his face * upon a sheet of paper—a familiar and well known practice, then let the artist take his scale and dividers, and carefully measure all the courses and distances of the lines which form the boundaries of the shadow. By the same means of courses and distances, the situation, form, and size of the eye, eye brow, mouth, &c. &c. may be precisely ascertained ; and thus by the help of a few letters and figures, may the exact likenesses of great personages be transmitted to posterity, and made as
public

* Or of his whole person.

public as a common advertisement, and at as little expence.

WHAT satisfaction would it not afford us at this day to be possessed of an accurate survey of the faces of *Julius Cæsar*, *Mark Anthony*, *Cicero*, *Virgil*, *Horace*; and other renowned characters, who are now only known by their works and exploits.

My project will, moreover, be particularly beneficial to private families; a man may, in the division of his estate, so contrive it as to leave his likeness in a tract of land. So that his grandson will have nothing to do but consult his title deeds, take down the lines and courses of his farm, and by plotting them on paper may at any time produce the portrait of his deceased ancestor, and survey his ground and his grandfather at one and the same time; whose resemblance will be thus secured to his family, subject to no variation, but the variation of the needle.

My scheme will be sufficiently manifested by an example. And this I shall give by transcribing from my table book the courses and distances of the tract of land which gave me the first idea of applying the practice of surveying to the purposes of portrait painting.

THE following is an exact copy of the courses and distances, and the drawing is plotted from them with as much accuracy as the subject would admit.

FROM an assumed point A, run a line S. 67° $30'$ W. 52 perches, to a point B; thence N. 5° W. 64 perches to C; thence N. 7° W. 36 perches to D; thence due west, 60 perches to E; thence N. 48° E. 110 perches to F; thence N. 13° E. 60 perches to G; thence N. 45° E. 190 perches to H; thence N. 77° E. 108 perches to I; thence S. 5° W. 240 perches to K; thence along the same course 120 perches to L; thence S. 78° W. 180 perches to M; and thence 30 perches to the place of beginning.

THESE lines form external boundaries of the tract. For a further description, the following courses and distances must be observed.

FROM the point A continue the line B A, 100 perches to N; thence N. 29° E. 48 perches to a point. From the point C a foul ditch runs eastward 35 perches. From the point D it is 25 perches to the edge of a circular hill bending westward, and over D is an elliptical hollow 40 perches long, where it joins the southermost part
of

of the circular hill. The soil of this elliptical hollow is very moist and unctuous : and fit for the cultivation of Tobacco—From the point F a piece of woodland runs N. 48° E. 59 perches to a point, and thence tends south-easterly 45 perches. This copse of woods is of an elliptical form, beginning very narrow at F and encreasing to 10 perches in width at the northernmost point of the curve, and thence decreases in width to the south-easternmost point, where it is very thin.

IN a due north and south line passing through the point M, and at the distance of 180 perches north of M, assume a point o, and from that point draw a line N. 70° W. 30 perches. From a point in this line, a little to the westward of o, draw another line running southwestwardly 25 perches, forming an angle of 35° with the other line. About 20 perches from the angular point o draw a circular line perpendicularly and *looking* westward. These three lines will form a mixed triangle, whereof two of the legs will be right lines, and the third a portion of a sphere. The northern leg of this triangle is fringed with rushes, being the edge of a watery soil, it must therefore be penciled somewhat thicker and stronger than the southern leg, which should be rather faintly sketched than absolutely drawn.

FROM the point G run a line N. 60° E. 150 perches to a point P; thence South 46° E. 20 perches to Q; thence south 30° W. 130 perches to R; thence due south 20 perches to S; thence S. 62° E. 95 perches to T; and thence 70 perches to K.

FROM the middle of the line S T, there is a circular piece of rising ground, being 45 perches on the line S T, and stretching south-westerly 25 perches. At the foot of this rising ground is a copse, thick covered with wild brush and coarse underwood, of a circular shape, whose diameter from N. E. to S. W. is 45 perches, and from N. W. to S. E. 40 perches.

ALL the space bounded by the lines G, H, I, K, T, S, R, Q, P, is a cold, moist, and barren soil, producing nothing but a profusion of coarse reeds, rank and long. These have been so blown down by westerly winds, that from G they tend to the E. N. E; from P Q to the N. E. and from R S eastwardly. These reeds run over the boundary line I K very straggling and irregular, so as to cover and conceal that line: and therefore the line I K must not be drawn absolute, but only dotted, or traced, being no more than the average course of the long reeds. From
the

the whole line T K, the reeds run due south, and are very thick and long. All this must be expressed by the pencil. Lastly, all the sharp angles of the figure must be moderately rounded off, and all the lines made somewhat arching, but sparingly. The eye of the artist will best direct him how to dress the lines and angles so as to answer the general design.

If the above courses and distances are carefully laid down upon paper, and the directions observed, they will produce the drawing of a human face: and if the draftsman should have any tolerable judgment in things of this kind, and a warm imagination, he may fancy that he discovers a likeness of some person or other. I plotted my scale of $\frac{1}{2}$ inch to 100 perches.

I have it in contemplation to improve my device, by ascertaining, in fixed terms, the manner in which a profile so drawn may be coloured to the life, and thereby make the likeness perfect. For this purpose I had recourse to *heraldry*; and hoped by means of *or*, *argent*, *gules*, &c. to dictate precisely the complexion, colour of the hair, eyes, &c. but could not find terms sufficient to express the necessary tints: and as to the termination *ish*, which some make use of, as in blueish, greenish, redish, &c.

&c. it is too vague and indeterminate for the purpose. Unless therefore, I can find some known art or science which will furnish definitions of colours as certain and intelligible, as surveying gives us lines and courses, I shall be obliged to compose a set of appellations answerable to all the principal colours, and as many of their gradations and mixtures as are usual in portrait painting. These being once admitted, will serve for ever after. Thus, in engraving, the directions of the strokes of the engraver ascertain the colours or *blazoning* of a coat of arms. When it became generally admitted that horizontal strokes should indicate *blue*, perpendicular strokes, *red*; diagonal strokes, *green*; and so on, all uncertainty was removed.

PERHAPS Mr. Pine and Mr. Peale may take it into their heads, that I have made this discovery public, with a malicious intention to injure them in their profession; but I protest before all men, that I have a considerable esteem for those ingenious gentlemen, and would willingly have suppressed my project out of tenderness to them, had not an urgent sense of the duty I owe to my fellow-citizens at large, overbalanced the influence of private attachments.

It will be in vain for any projector, in France, England, or elsewhere, to dispute with me the honour of this invention, unless he can produce a publication of a similar scheme, bearing date prior to this month of November 1784. But, to prevent all mistakes, I wish our philosophical society would be so good as to make a minute of my discovery : and it would be still better, if *Mr. Patterson* would give the foregoing survey, as a task to the lads of the university under his tuition.

PROJECTOR.

For

* For the Pennsylvania Packet.

A Man who is *disposed* to be entertained may find amusement in the most common occurrences of life. Objects strike the eye, and incidents affect the mind, very differently in different persons. Some men accustom themselves to see every thing in a ludicrous point of view ; others, in a serious light ; and, the multitude are content with mere perception ; that is, barely seeing and hearing, without making any other further use of their senses.

THIS diversity of disposition is founded in the original constitutions of the parties. The *humorist* was funny and roguish when a boy ; following the propensity of his nature, he acquires an habitual facility in associating ludicrous ideas with the most ordinary, and seemingly the most barren incidents
of

* Some personal altercations in the public papers occasioned this piece of ridicule.

of life. His eye immediately discovers any singularity of countenance, or manner, because he is always looking for singularities ; and he finds something to divert him in the most common transactions, because he is always hunting for diversion.

I have myself, some tincture of this disposition ; and, when disengaged from more serious business, I fall forth with a design to seek for entertainment. A variety of sources immediately present. For instance : it requires no great effort of imagination to suppose that the major part of the inhabitants of this great city are actually *mad*. Impressed with this idea, I observe the countenance, gait, and manner of every one I meet, and endeavour to class my lunatics under different species of frenzy.

ONE fellow drives along with such heedless impetuosity, that he treads in the gutters instead of stepping over them, and runs against the posts, which he might easily avoid. Another, has such strong marks of anxiety, expressed in every feature of his face, that his whole soul seems to be absorbed in some sale, purchase, or other pursuit. A third, is haranguing with great vehemence to two or three ignoramuses who devour his politics with open ears. And, I see a fourth, in a violent passion,

passion, cursing and swearing like a sailor in a storm. But there is no end to the variety of characters that present, and consequently no end to this source of observation and entertainment.

At another time, I apply to the streets for a different species of diversion. I walk round a square, and attend to all the scraps and fragments of conversation I can pick up *en passant*. When I return home I write these on separate pieces of paper: and then amuse myself with arranging them in such order as to produce, if possible some apparent connection. If this cannot be done, I make another excursion, and collect more materials, till out of a great number, I am enabled to accomplish my purpose. For example—

{ What's the price of butter to-day?
 } It will sell for 4s. per gallon by the hoghead.

{ Is your cousin married?
 } She will be launched next Thursday.

{ She is a good beast, and will carry you through
 } thick and thin.
 } Ay! to be sure we must support the constitution.

{ Do you think *the funding bill* * will pass?
 { No friend. The insurers must bear the loss: we
 { have nothing to do with it.

{ They say *Longchamp* † will be given up.
 { That's my man—no, it's mine—I swear it's mine:
 it rolled into the gutter; it struck against that gen-
 tleman's foot, and he kicked it into the gutter.—
 Didn't it Tom? Didn't it Jack?—You lie! I say
 it didn't.—Did it Cuff? Did it Pompey? And
 here a boxing match.

BUT my present fancy is to suppose the public
 newspapers to be so many real theatres, on which
 some comedy or farce is daily exhibited for my en-
 tertainment. About nine o'clock the packet of
 the

* A bill for funding the public debt was at this time before the
 house. Those who had contributed nothing in the late war, were
 unwilling to be taxed for the payment of interest on the sums lent
 to government for carrying it on: and therefore opposed the bill.

† A Frenchman who had insulted the consul and minister of
 France, and immediately took the oath of allegiance to the state of
 Pennsylvania, and claimed protection as a citizen of the common-
 wealth: but the minister of France demanded him as a French sub-
 ject, and a deserter from the army. This matter occasioned a great
 deal of confusion, and much trouble to government.

the day is brought in : I take my seat : the curtain rises, and the play begins.

For instance :

SCENE—PHILADELPHIA.

Enter a doctor of divinity,
and a doctor of medicine.*

A very familiar dialogue commences, in which each performer endeavours to display the character of his antagonist in as striking a manner as possible to my great satisfaction. I imagine I see the professional battle. The divine throws text of scripture in the face of his adversary, and hampers him with the cords of logical conclusions ; whilst the physician squirts clysters at the divine, and claps cantharides on his back.

BUT the most comical part of the scene is this. The learned divine *hoists* the university, and exposing its naked skin, exclaims with admiration—" Oh, charming ! behold and see what a *broad bottom* is here !"

* A warm controversy between Dr. E—— and Dr. R——, respecting the *university of Pennsylvania*, and the *college at Carlisle* : in which the *broad bottom* of the university was too frequently mentioned to pass unnoticed.

here !” Whereupon the physician immediately hoists *Dickenson college*, and with equal eloquence descants upon its *narrow bottom*.—“ Look, says the divine, on this capacious disk—on the one side sits the *pope* ; on the other side sits *Luther* ; and see how snug *Calvin* lies between them both.” “ Its all wrong, replies the physician, *Calvin* has no business there: he will be choaked—he will be suffocated—he will be squeezed to death—here is a fine *narrow bottom* more fit for his accommodation. He can have it all to himself—he is a *usurper* there, but *this* is his own flesh and blood.” From words they proceed to blows. The divine is heated with zeal seven times hotter than *Nebuchadnezzar’s furnace*: he vociferates—“ The sword of the Lord and of Gideon !” and forthwith flogs away on the narrow bottom of poor *Carlisle*. The physician is also enraged. “ By the bones of *Boerhaave*, and the dust of *Hypocrates*, says he, I will be even with you :” and without further prelude, falls to scourging the pope, Luther, and Calvin all at once upon the broad bottom of the university.—But the scene changes—

Enter

Enter two musicians:

(Another battle.)

* Mr. *Tweedledum* begins the attack with a full *discord* in a *sharp third*, and leaves it *unresolved*, which to be sure is very shocking. Mr. *Tweedledee* replies in the *natural key*; but in a *sharp third* also. *Tweedledum* then changes the modulation, and after running a rapid division, closes with a chromatic arpeggio in a flat third. There is no bearing this. The parties are enraged—*Tweedledum* seizes the diapason pipe of an organ—*Tweedledee* defends himself with a silver mounted flute; and to it they go—blasting away at each other with astonishing vigour and dexterity. Methinks I hear the shrill tones of the flute, now ranging through the upper octave, and maintaining acknowledged superiority; and now descending into the flowery plains of the fruitful tenor, and yielding to the powerful vibrations of the dreadful organ pipe.

Thus it is, that by the help of imagination, and a talent for considering circumstances in a singular point of view, I am enabled to find entertainment in occurrences which are scarcely noticed by others.

But

* A dispute between Mr. *Brown*, an eminent performer on the flute, and Mr. *Bentley*, an organist.

But I never make sport of matters really serious. The miseries, misfortunes, and sufferings of our fellow creatures can never be proper subjects of ridicule; but the passions, follies, and absurdities of mankind are surely lawful occasions of laughter.

A. B.

March, 1785.

But I never make sport of manners really foreign.
The mistakes, misnomers, and misgivings of our
own countrymen can never be proper subjects of
ridicule; but the passions, follies, and absurdities
of mankind are fairly laughing-matter to us.

L E T T E R

FROM A GENTLEMAN IN AMERICA; TO HIS FRIEND

IN EUROPE,

ON

W H I T E - W A S H I N G .

DEAR SIR,

THE peculiar customs of every country appear to strangers awkward and absurd, but the inhabitants consider them as very proper and even necessary. Long habit imposes on the understanding, and reconciles it to any thing that is not manifestly pernicious or immediately destructive.

THE religion of a country is scarcely held in greater veneration than its established customs; and it is almost as difficult to produce an alteration in the one as in the other. Any interference of government

government for the reformation of natural customs, however trivial and absurd they may be, never fails to produce the greatest discontent, and sometimes dangerous convulsions. Of this there are frequent instances in history. Bad habits are most safely removed by the same means that established them, viz. by imperceptible gradations, and the constant example and influence of the higher class of the people.

WE are apt to conclude that the fashions and manners of our own country are most rational and proper, because the eye and the understanding have long since been reconciled to them, and we ridicule or condemn those of other nations on account of their novelty: yet the foreigner will defend his national habits with at least as much plausibility as we can our own. The truth is, that reason has little to do in the matter. Customs are for the most part arbitrary, and one nation has as good a right to fix its peculiarities as another. It is of no purpose to talk of convenience as a standard: every thing becomes convenient by practice and habit.

I have read somewhere of a nation (in Africa I think) which is governed by twelve counsellors. When these counsellors are to meet on public business, twelve large earthen jars are set in two rows,

and filled with water. The counsellors enter the apartment one after another, stark naked, and each leaps into a jar, where he sits up to the chin in water. When the jars are all filled with counsellors, they proceed to deliberate on the great concerns of the nation. This, to be sure, forms a very grotesque scene ; but the object is to transact the public business : they have been accustomed to do it in this way, and therefore it appears to them the most rational and convenient way. Indeed, if we consider it impartially, there seems to be no reason why a counsellor may not be as wise in an earthen jar as in an elbow chair ; or why the good of the people may not be as maturely considered in the one as in the other.

THE established manners of every country are the standards of propriety with the people who have adopted them ; and every nation assumes the right of considering all deviations therefrom as barbarisms and absurdities.

THE *Chinese* have retained their laws and customs for ages immemorial : and although they have long had a commercial intercourse with European nations, and are well acquainted with their improvements in the arts, and their modes of civilization, yet they are so far from being convinced

of any superiority in the European manners, that their government takes the most serious measures to prevent the customs of foreigners taking root amongst them. It employs their utmost vigilance to enjoy the benefits of commerce, and at the same time guard against innovations that might affect the characteristic manners of the people.

SINCE the discovery of the *Sandwich* islands in the South-Sea, they have been visited by ships from several nations; yet the natives have shewn no inclination to prefer the dress and manners of the visitors to their own. It is even probable that they pity the ignorance of the Europeans they have seen, as far removed from civilization; and value themselves on the propriety and advantage of their own customs.

THERE is nothing new in these observations, and I had no intention of making them when I sat down to write, but they obtruded themselves upon me. My intention was to give you some account of the people of these new states; but I am not sufficiently informed for the purpose, having, as yet, seen little more than the cities of *New-York* and *Philadelphia*. I have discovered but few national singularities amongst them. Their customs and manners are nearly the same with those of

England, which they have long been used to copy. For, previous to the late revolution, the Americans were taught from their infancy to look up to the English as the patterns of perfection in all things.

I have, however, observed one custom, which, for ought I know, is peculiar to this country. An account of it will serve to fill up the remainder of this sheet, and may afford you some amusement.

WHEN a young couple are about to enter on the matrimonial state, a never failing article in the marriage treaty is, that the lady shall have and enjoy the free and unmolested exercise of the rights of WHITE-WASHING, with all its ceremonials, privileges, and appurtenances. You will wonder what this privilege of *white-washing* is. I will endeavour to give you an idea of the ceremony, as I have seen it performed.

THERE is no season of the year in which the lady may not, if she pleases, claim her privilege; but the latter end of May is generally fixed upon for the purpose. The attentive husband may judge, by certain prognostics, when the storm is nigh at hand. If the lady grows uncommonly fretful, finds fault with the servants, is discontented with the children,

children, and complains much of the nastiness of every thing about her : these are symptoms which ought not to be neglected, yet they sometimes go off without any further effect. But if, when the husband rises in the morning, he should observe in the yard, a wheelbarrow, with a quantity of lime in it, or should see certain buckets filled with a solution of lime in water, there is no time for hesitation. He immediately locks up the apartment or closet where his papers, and private property are kept, and putting the key in his pocket, betakes himself to flight. A husband, however beloved, becomes a perfect nuisance during this season of female rage. His authority is superseded, his commission suspended, and the very scullion who cleans the brasses in the kitchen becomes of more importance than him. He has nothing for it but to abdicate, for a time, and run from an evil which he can neither prevent nor mollify.

THE husband gone, the ceremony begins. The walls are stripped of their furniture—paintings, prints, and looking-glasses lie in huddled heaps about the floors ; the curtains are torn from their testers, the beds crammed into windows, chairs and tables, bedsteads and cradles crowd the yard ; and the garden fence bends beneath the weight of carpets, blankets, cloth cloaks, old coats, under petticoats,

petticoats, and ragged breeches. *Here* may be seen the lumber of the kitchen, forming a dark and confused mass for the fore-ground of the picture; gridirons and frying-pans, rusty shovels and broken tongs, joint stools, and the fractured remains of rush bottomed chairs. *There* a closet has disgorged its bowels—rivetted plates and dishes, halves of china bowls, cracked tumblers, broken wine-glasses, phials of forgotten physic, papers of unknown powders, seeds and dried herbs, tops of tea-pots, and stoppers of departed decanters—from the rag hole in the garret, to the rat hole in the cellar, no place escapes unrummaged. It would seem as if the day of general doom was come, and the utensils of the house were dragged forth to judgment. In this tempest, the words of king *Lear* unavoidable present, and might with little alteration be made strictly applicable.

“ ————— Let the great gods
 “ That keep this dreadful pudder o’er our heads
 “ Find out their enemies now. Tremble thou wretch
 “ That hast within thee undivulged crimes
 “ Unwhipt of justice ————— ”
 “ ————— Close pent up guilt,
 “ Rive your concealing continents, and ask
 “ These dreadful summoners grace.”

THIS ceremony completed, and the house thoroughly

roughly evacuated, the next operation is to smear the walls and ceilings with brushes, dipped in a solution of lime called WHITE-WASH; to pour buckets of water over every floor, and scratch all the partitions and wainscoats with hard brushes, charged with soft soap and stone-cutter's sand.

THE windows by no means escape the general deluge. A servant scrambles out upon the pent-house, at the risk, of her neck, and with a mug in her hand, and a bucket within reach, dashes innumerable gallons of water against the glass panes, to the great annoyance of passengers in the street.

I have been told that an action at law, was once brought against one of these water nymphs, by a person who had a new suit of clothes spoiled by this operation: but after long argument it was determined, that no damages could be awarded; inasmuch as the defendant was in the exercise of a legal right, and not answerable for the consequences. And so the poor gentleman was doubly non-suited; for he lost both his suit of clothes and his suit at law.

THESE smearings and scratchings, these washings and dashings, being duly performed, the next ceremonial is to cleanse and replace the distracted furniture,

niture. You may have seen a house-raising, or a ship-launch—recollect, if you can, the hurry, bustle, confusion, and noise of such a scene, and you will have some idea of this cleansing match. The misfortune is, that the sole object is to make things *clean*. It matters not how many useful, ornamental, or valuable articles suffer mutilation or death under the operation. A mahogany chair and a carved frame undergo the same discipline: they are to be made *clean* at all events; but their preservation is not worthy of attention. For instance: a fine large engraving is laid flat upon the floor; a number of smaller prints are piled upon it, until the super-incumbent weight cracks the lower glass—but this is of no importance. A valuable picture is placed leaning against the sharp corner of a table; others are made to lean against that, till the pressure of the whole forces the corner of the table through the canvas of the first. The frame and glass of a fine print are to be cleaned; the spirit and oil used on this occasion are suffered to leak through and deface the engraving—no matter! If the glass is clean and the frame shines it is sufficient—the rest is not worthy of consideration. An able arithmetician hath made a calculation, founded on long experience, and proved that the losses and destruction incident to two white-washings are equal

to one removal and three removals equal to one fire.

THIS cleansing frolic over, matters begin to resume their pristine appearance: the storm abates, and all would be well again: but it is impossible that so great a convulsion in so small a community should pass over without producing some consequences. For two or three weeks after the operation, the family are usually afflicted with sore eyes, sore throats, or severe colds, occasioned by exhalations from wet floors and damp walls.

I know a gentleman here who is fond of accounting for every thing in a philosophical way. He considers this, which I call *a custom*, as a real, periodical disease, peculiar to the climate.—His train of reasoning is whimsical and ingenious, but I am not at leisure to give you the detail. The result was, that he found the distemper to be incurable; but after much study, he thought he had discovered a method to divert the evil he could not subdue. For this purpose, he caused a small building, about twelve feet square, to be erected in his garden, and furnished with some ordinary chairs and tables, and a few prints of the cheapest sort. His hope was, that when the white-washing frenzy seized the females of his family,

mily,

mily they might repair to this apartment, and scrub, and scour, and smear to their hearts content; and so spend the violence of the disease in this out-post, whilst he enjoyed himself in quiet at head-quarters. But the experiment did not answer his expectation. It was impossible it should, since a principal part of the gratification consists in the lady's having an uncontrolled right to torment her husband, at least once in every year; to turn him out of doors, and take the reins of government into her own hands.

THERE is a much better contrivance than this of the philosopher's: which is, to cover the walls of the house with paper. This is generally done. And though it does not abolish, it at least shortens the period of female dominion. This paper is decorated with various fancies, and made so ornamental that the women have admitted the fashion without perceiving the design.

THERE is also another alleviation of the husband's distress. He generally has the sole use of a small room or closet for his books and papers, the key of which he is allowed to keep. This is considered as a privileged place, even in the white-washing season, and stands like the land of *Goshen* amidst the plagues of *Egypt*. But then he
must

must be extremely cautious, and ever upon his guard: for should he inadvertently go abroad, and leave the key in his door, the house maid, who is always on the watch for such an opportunity, immediately enters in triumph with buckets, brooms, and brushes—takes possession of the premises, and forthwith puts all his books and papers *to rights*, to his utter confusion, and sometimes serious detriment. I can give you an instance.

A gentleman was sued at law, by the executors of a mechanic, on a charge found against him in the deceased's books to the amount of £ 30. The defendant was strongly impressed with a belief that he had discharged the debt and taken a receipt; but as the transaction was of long standing, he knew not where to find the receipt. The suit went on in course, and the time approached when judgment should be obtained against him. He then sat down seriously to examine a large bundle of old papers, which he had untied and displayed on a table for the purpose. In the midst of his search he was suddenly called away on business of importance. He forgot to lock the door of his room. The house maid who had been long looking for such a opportunity, immediately entered with the usual implements, and with great alacrity fell to cleaning
ing

ing the room and *putting things to rights*. One of the first objects that struck her eye was the confused situation of the papers on the table. These, without delay, she hudled together like so many dirty knives and forks ; but in the action a small piece of paper fell unnoticed on the floor, which unfortunately happened to be the very receipt in question. As it had no very respectable appearance, it was soon after swept out with the common dirt of the room, and carried in a dust pan to the yard. The tradesman had neglected to enter the credit in his book. The defendant could find nothing to obviate the charge, and so judgment went against him for debt and costs. A fortnight after the whole was settled, and the money paid, one of the children found the receipt amongst the dirt in the yard.

THERE is also another custom, peculiar to the city of Philadelphia, and nearly allied with the former. I mean that of washing the pavements before the doors every Saturday evening. I at first supposed this to be a regulation of the police ; but, on further enquiry, I find it is a religious rite preparatory to the Sabbath : and it is, I believe, the only religious rite in which the numerous sectaries of this large city perfectly agree. The ceremony begins about sunset and continues
till

till ten or eleven at night. It is very difficult for a stranger to walk the streets on those evenings. He runs a continual risk of having a bucket of dirty water dashed against his legs ; but a Philadelphian born is so much accustomed to the danger that he avoids it with surprising dexterity. It is from this circumstance that a Philadelphian may be known any where by a certain skip in his gait. The streets of New York are paved with rough stones. These, indeed, are not washed, but the dirt is so thoroughly swept from between them that they stand up sharp and prominent, to the great annoyance of those who are not accustomed to so rough a path. But habit reconciles every thing. It is diverting enough to see a Philadelphian at New York. He walks the street with as much painful caution as if his toes were covered with corns, or his feet lamed by the gout : whilst a New Yorker, as little approving the plain masonry of Philadelphia, shuffles along the pavement like a parrot upon a mahogany table.

It must be acknowledged that the ablutions I have mentioned are attended with no small inconvenience ; yet the women would not be induced by consideration to resign their privilege.

NOTWITHSTANDING

NOTWITHSTANDING this singularity, I can give you the strongest assurances that the women of America make the most faithful wives, and the most attentive mothers in the world. And I don't doubt but you will join me in opinion, that if a married man is made miserable only for one week in a whole year, he will have no great cause to complain of the matrimonial bond.

THIS letter has run on to a length I did not expect; I therefore hasten to assure you that I am as ever.

June 1785.

Your, &c. &c. &c.

* To

* TO THE EDITOR OF THE COLUMBIAN MAGAZINE:

S I R,

I HAVE seen a piece in the *Pennsylvania Packet*, and republished in *Mr. Carey's Museum*, upon the custom of *White-washing*, in which that necessary duty of a good house-wife is treated with unmerited ridicule. I should probably have forgot the foolish thing; but the season approaching, which most women think suitable for cleansing their apartments of the smoke and dirt of the winter, I hear this saucy author dished up in every family, and his flippant performance quoted whenever a wife attempts to exercise her reasonable prerogative or execute the duties of her station.

WOMEN generally employ their time to better purpose than in scribbling. The care and comforts of a family rest principally on their
VOL. II. L shoulders.

* The preceding publication made no small clamour amongst the ladies; to make amends, the author wrote this answer.

shoulders. Hence it is that there are but few female authors ; and the men, knowing how necessary our attentions are to their happiness, take every opportunity of discouraging literary accomplishments in the fair sex. We hear it echo'd from every quarter—" My wife cannot make verses, it is true ; but she makes an excellent pudding—She can't correct the press ; but she can correct her children, and scold her servants with admirable discretion—she can't unravel the intricacies of political oeconomy and federal government ; but she can knit charming stockings." And this they call praising a wife, and doing justice to her good character.

I say women generally employ their time to better purpose than in scribbling ; otherwise this facetious writer had not escaped so long unanswered. We have ladies who sometimes lay down the needle and take up the pen ; I wonder none of them have attempted some reply. For my part I do not pretend to be an author : I never appeared in print in my life, but I can no longer forbear saying something in answer to such impertinence.

ONLY consider, Mr. Editor, our situation. Men are naturally inattentive to the decencies of life

life; but why should I be so complaisant? I say they are naturally nasty beasts. If it were not that their connection with the refined sex polished their manners, and had a happy influence on the general œconomy of life, these lords of the creation would wallow in filth, and populous cities would infect the atmosphere with their noxious vapours. It is the attention and assiduity of the women that prevent men from degenerating into swine.

How important, then, are the services we render! And yet for these very services we are made the subject of ridicule and fun—Base ingratitude! nauseous creatures! Perhaps you may think I am in a passion—No, Mr. Editor, I do assure you I was never more composed in my life; and yet it is enough to provoke a saint to see how unreasonably we are treated by the men—Why, now, there's my husband, a good enough sort of a man in the main, but I will give you a small sample of him. He comes into the parlour, the other day, where, to be sure, I was cutting up a piece of linen. “Lord, says he, what a clutter here is—I cannot bear to see the parlour look like a tailor's shop—besides, I am going to make some important philosophical experiments, and must have sufficient room.” You must know my husband is

one of your would-be philosophers. Well—I bundled up my linen as quick as I could, and began to darn a pair of ruffles, which took up no room, and could give no offence. I was determined, however, to watch my lord and master's important business. In about half an hour the tables were covered with all manner of trumpery—bottles of water, phials of drugs, pasteboard, paper and cards, glue, paste and gum-arabic, files, knives, scissars and needles, rosin, wax, silk, thread, rags, jags, tags, books, pamphlets and manuscripts.—Lord blefs me! I am almost out of breath, and yet I have not enumerated half the articles. Well! to work he went, and although I did not understand the object of his manœuvres, yet I could sufficiently discover that he did not succeed in any one operation: I was glad of that—yes, I confess, I was glad of that, and good reason too. After he had fatigued himself with mischief, like a monkey in a china shop, and had called the servants to clear every thing away, I took a view of the scene before me. I shall not even attempt a minute description—suffice it to say, that he had overset his inkstand, and stained my best mahogany table with ink; he had spilt a quantity of vitriol upon my carpet, and burned a hole in it; my marble hearth was all over spotted with melted rosin; he had broken

ken three china cups, two wine glasses, a tumbler, and one of my best decanters; and after all, as I said before, I perceived that he had not succeeded in any one operation. By the bye—tell your friend the white-wash scribbler, that this is one way by which our closets become furnished with—“halves of china bowls, cracked tumblers, broken wine glasses, tops of tea pots, and stoppers of departed decanters.” I say, I took a sober view of the dirt and devastation my philosophical husband had made; and there I sat, *like patience on a monument, smiling at grief*; but it worked inwardly—yes, Mr Editor, it worked inwardly, I would almost as lieve the melted rosin had been in his throat, and the vitriol upon his skin, as on my dear marble hearth and my carpet. It is not true that women have no command over their own feelings; for not withstanding this gross provocation I said nothing, or next to nothing; I only observed, very pleasantly, that a lady of my acquaintance had told me, that the reason why philosophers are called *literary* men, is because they frequently make a great *litter*—not a word more—However, the servant cleared away, and down sat the disappointed philosopher. A friend dropt in soon after—“Your servant Sir,—how do you do?” “Oh Lord! I am almost fatigued

to death—I have been all the morning making philosophical experiments.” I was now more hardly put to it to smother a laugh, than I had been just before to contain my resentment. My *precious* went out soon after with his friend—And I, as you may well suppose, immediately mustered all my forces—brushes, buckets, soap, sand, lime-skins, and cocoa-nut shells—all the powers of house-wifery were employed. I was certainly the best philosopher of the two, for my experiments succeeded, and his did not—all was well again, except my broken ware and my carpet—my poor vitriolized carpet, which still remains a mournful memento of philosophic fury; or rather of philosophic folly.

THIS operation was scarce over, when in came my *experimental dear*, and told me with all the indifference in the world, that he had invited six gentlemen to dine with him at three o’clock—it was then past one—I complained of the short notice—“Poh! Poh! says he, you can get a leg of mutton, and a loin of veal, and a few potatoes, and it will do well enough—Heaven’s! what a chaos must the head of a philosopher be!—A leg of mutton, a loin of veal and potatoes! I was at a loss whether I should laugh or be angry.

But

But there was no time for determining—I had but an hour and a half to do a world of business in. My carpet, which had suffered in the cause of experimental philosophy in the morning, was destined to be shamefully dishonoured in the afternoon by a deluge of filthy tobacco juice—Gentlemen smokers and chewers, love segars and pigtail better than carpets.

THINK, Mr Editor, what a woman must endure under such circumstances ; and then, after all to be reproached with her cleanliness, and to have her white-washings, her scowrings and scrubblings made the subject of public ridicule, is more than patience can put up with.

WHAT I have now exhibited is but a small specimen of the injuries we suffer under the boasted superiority of the men. But we will not be laughed out of our cleanliness. A woman would rather be called ***** than *slut* ; as a man would rather be called a *knave* than *fool*.

I had a great deal more to say, but I am called away—We are just preparing to *white-wash*—Yes, I say to *white-wash*—the brushes are ready, the buckets are paraded—my husband is gone off—

off—so much the better—When one is about a thorough cleaning, the first dirty thing to be removed is one's husband—I am called for again—adieu !

Your's

NITIDIA.

* THE

*THE COBLER.

N^o I.

W HETHER it is owing to some solitary hours I pass in my subterraneous shop, or to the overflowings of a large accumulation of ideas, acquired in a life of travel and adventures; or that the incessant motion of my elbows, necessary in my occupation, which, for reasons unknown, may irritate and provoke the mind to discharge its contents, as the motion of a ship operates upon the stomachs, or that by some secret influence of the philosophical walls that surround me I am induced,
or

* The hall of the philosophical society was begun without a sufficient fund for completing it, and, indeed, without the any reasonable prospect of procuring one. The cellars, however, were finished, and the building remained a long time without any further advancement. One of the invalid soldiers, whose quarters were adjoining this building, had fitted up a cobbler's stall in these cellars, he having formerly been a shoemaker, and he is supposed to be the author of this paper. A course of numbers was intended for the use of the *Columbian Magazine*. But a well known and singular character being too strongly marked in this first number, the editor of the magazine declined publishing it, and so the whole design was laid aside.

or rather compelled, to become an author, I know not—But so it is—If any fortune-teller had foretold that in the year 1787 I should make my appearance as an essayist, before the respectable public, I should have laughed at the prophet, and despised his art. And yet I remember I had a dream, some twenty years ago, the interpretation of which seems now to be plain enough, although at the time I could make nothing of it.

I thought I had lost myself in a thick wood, without any road or path to direct my way. Whilst I was considering what course I should take, a wild goose and a parrot descended from a large tree, and after several circuitous flights, alighted, the one on my right shoulder, and the other on left. These birds were certainly figurative of my authorship and genius.

WHEN a writer makes his first appearance on the public stage, he is like an unknown stranger introducing himself into a large assembly : all eyes are turned towards him, and the whisper goes round “ Who is he ? Who is he ? Do you know “ him ? Do you ? Not I, sir, not I, madam : ” whereby it becomes necessary that he should give some account of himself. I shall endeavour to satisfy
this

this reasonable expectation in as few words as I can,

I was born in an obscure village in England. My father could neither read nor write, but had a most profound veneration for men of genius and learning. He carried this blind passion so far, that he was frequently the subject of ridicule; and sometimes suffered real loss by sharpers who imposed themselves upon him for scholars, and authors neglected by the ungrateful world, or men of genius, on the point of producing the most important discoveries,

My father resolved to do better by me than his father had done by him; and therefore put me to a charity-school as soon as I was eight years old. After two years cruel persecution, I was whipped through the spelling-book as far as words of five syllables. It took me three months and a half to spell the word *liberality*; in which time I received 97 strokes of the ferule on my right hand, and 53 on my left; 8 times I wore the dunce's cap; and 5 times publicly whipt. Besides these, I received one hundred and thirteen stripes with a rattan across my shoulders, and suffered two hundred and twenty five pinches of my right ear. At last I could spell the word *liberality*.
But

But being no longer able to bear this cruel discipline, I took to my heels and ran off.

I was cunning enough to elude the search my father made for me for two years, and subsisted by hiring myself occasionally as a servant. At last, I offered myself to a farmer, who had seen an advertisement answering my description. He secured me, and sent me back to my father, who loaded me with reproaches and abuse. He gave over all expectation of making me a scholar, and fixing his hopes upon my brother *Dick*, bound me apprentice to a shoemaker.

I was almost as unsuccessful here as at the free-school. I acquired a tolerable knack at botching and patching, but could never arrive at the skill of making a whole shoe.

AFTER I had in vain tried for four years to make myself master of the business, I conceived a thorough dislike to the trade, and throwing down my strap and last, I once more threw myself into the hands of fortune.

My father died soon after, and my mother did not think me worth enquiring after.

I went

I went through various scenes of employ for seven years : In which time I had great opportunities of making observations on men and manners. I contracted many prejudices ; I stored up many opinions, and learned many words : but the word *liberality* was never out of my mind ; it had been impressed on my memory, and, I may say, engraved on my flesh.

At length I engaged in the service of a man very famous in the learned world ; a celebrated author in theology and natural philosophy. I lived with him many years. I adopted all his principles, not because I understood them, but because I lived with him, and they were his principles, and because I derived no small credit from this connection ; as the moon is admired for the light she affords, not that she is luminous in herself, but because she is within the influence of the sun's rays. I was more than the servant, I was the companion of this great man ; and as the multitude are apt to think that knowledge may be taken, like the itch or small-pox, by contagion, I acquired a considerable literary reputation amongst illiterate men. I turned the electric wheel for my patron ; I kindled his fire ; I brought him water ; I handed him books from the shelves, and bottles from the closet ; and so I became a *philosopher*. Moreover,
I car-

I carried his manuscripts to the printer, and brought back the printed sheets for correction; and so I became a *theologist*. It is true, I was often unlucky in my zeal to serve him; I inadvertently discharged his accumulated electricity; I cracked his jars, and broke his bottles; I burned his clothes with vitriol, and his flesh with aquafortis; and frequently stumbled in my way to the printer's, and plunged his manuscript in the kennel. But he was a *philosopher*, and bore all with patience.

STILL the word *liberality* pressed upon my mind. My master and I differed in opinion about dephlogisticated air: I thought he was very *illiberal*; and so we parted, and I determined to travel far and near in search of true *liberality*.

I ran through most of the countries in Europe, in hopes of finding this precious jewel. But, alas! to no purpose. In *Spain* and *Portugal* they believe in transubstantiation and the pope's infallibility, and the people of *France* believe in nothing at all; of course there could be no *liberality* in those countries. In *Italy*, they prefer the philosophy of *Ingenhouzen*, to that of my master and friend; this I thought very *illiberal*, notwithstanding our difference. In *Geneva*, they believe in predef-

predestination, a doctrine I abhor : and in *Switzerland*, the citizens make a practice of hiring themselves as soldiers to foreign princes.

I once thought I should find what I was in search of, amongst the rude but uncorrupted inhabitants of the *Alps* : but after sojourning with them many days, I discovered that they esteemed the large *wens* which most of them had hanging to their chins as very ornamental, for my part I thought them extremely ugly, and so I concluded, that there could be no *liberality* on the *Alps*.

It would be a useless task to enumerate all the particulars in which the people of every nation differed from me in opinion, and disappointed me in the object of my pursuit. True genuine *liberality* was not to be found amongst them.

At length I returned to England. Here I found things worse than ever. My friend's *theology* was publicly contested, and some of his doctrines even reprobated. Not only this, but the nation was engaged in a war with the people of America, on principles which I could not approve. Convinced, that there was no *liberality* in England, I determined to cross the Atlantic, and seek for it in America.

ON

ON my arrival in this country, I was much chagrined to find that the doctrine of the Trinity was generally received and professed; a doctrine against which I had acquired the strongest antipathy from my master, the great philosopher. However, as war raged in the country, there was no time for theological disquisitions; and as the justice of the war was clearly on the side of the Americans, I resolved to take an active part in their cause, and enlisted myself a soldier in the Pennsylvania line. I went through inexpressible toil and danger, in marches, counter-marches, skirmishes and battles, and was finally wounded at the siege of *York-Town*, when lord Cornwallis and his army surrendered to the allied forces of France and America.

After the peace, I supported myself by cobbling and patching, and employed my leisure hours in combating the doctrine of the Trinity, and devising grand schemes *for public utility*.

At length government thought fit to establish a corps of invalids, and fitted up the east wing of the state-house for their accommodation, and I now belong to this corps. As we have no great deal to do, our duty being very slight, I have spent much time in watching the progress of a
building

building near our quarters, intended as a hall for the Philosophical Society. Although it is not quite a year since the first stone was laid, the cellar is already completed; but *when* the roof will be raised, can be known only to men of profound erudition and nice calculation—to finish my history, of which but little now remains.—

As I stood looking on, whilst the labourers were digging this philosophical cellar, I took particular notice of the several *stratums* of loam, sand and gravel as they appeared. I procured samples of each, and submitting them to *hyperstratical* experiments, I found that they were all of different *pacific* gravities. This extraordinary circumstance strongly prejudiced me in favour of the society and their proposed hall, and I concluded that I should certainly find *true liberality* in the bottom of this scientific cellar.

As soon as it was completed, and covered with rough boards, I conveyed my bench and cobbling tools to this subterraneous temple of Minerva. And here I may be seen daily toiling for *public utility* in the double capacity of cobbler and author.

My situation, so contiguous to the seat of legislation and other offices of state, has made me of

no small use in the commonwealth. And the truth is, that I am now *oppressed with public business*—I have heeltaped counsellors; patched the upper leather of judges; examined the *soles* of assembly men, and given some of them better *understandings*.

NOTWITHSTANDING that the care of the state is thus daily pressing upon me, I enjoy good health, owing to the *fallibrity* of my philosophical work-shop: for, it is so ingeniously constructed, that the *atmospheric* air is compelled to descend and displace the *memphitic* air common in cellars and confined places.

FROM this profound habitation I shall date my future essays, and expect that my performances will procure me no small credit with the public, if the people have any *liberality*.

A warm dispute had taken place between *Mr. Moore*, a merchant, and *Mr. Lewis*, a lawyer. The parties attacked each other with great acrimony in the public papers; and the contest drew in friends on both sides, who soon became principals in the quarrel. Private challenges began to pass; and what are called the rules of honour were publickly discussed. One gentleman went so far as to publish a general challenge in the newspaper, undertaking to defend *Mr. Lewis's* side of the question against all persons whatsoever. It seemed very probable that this quarrel would have had a fatal issue amongst some of the parties, when the following piece of ridicule made its appearance, which turned the laugh of the town upon the combatants, entirely crushed the whole affair, and laughed the rules of honour out of countenance. The parties forgave each other sooner than they forgave the author.

FOR THE PENNSYLVANIA PACKET.

I Mentioned in a former essay that my greatest ambition is to become famous by the invention of some ingenious or useful project which shall be generally approved and adopted. At the same time I communicated to the public, a device, which, from its novelty and convenience, I thought could not fail of success. In vain, however, have I looked for that applause which I still think justly due to the fruit of genius, ripened by the labours

no small use in the commonwealth. And the truth is, that I am now *oppressed with public business*—I have heeltaped counsellors; patched the upper leather of judges; examined the *soles* of assembly men, and given some of them better *understandings*.

NOTWITHSTANDING that the care of the state is thus daily pressing upon me, I enjoy good health, owing to the *fallibrity* of my philosophical work-shop: for, it is so ingeniously constructed, that the *atmospheric* air is compelled to descend and displace the *memphitic* air common in cellars and confined places.

FROM this profound habitation I shall date my future essays, and expect that my performances will procure me no small credit with the public, if the people have any *liberality*.

✂ A warm dispute had taken place between *Mr. Moore*, a merchant, and *Mr. Lewis*, a lawyer. The parties attacked each other with great acrimony in the public papers; and the contest drew in friends on both sides, who soon became principals in the quarrel. Private challenges began to pass; and what are called the rules of honour were publickly discussed. One gentleman went so far as to publish a general challenge in the newspaper, undertaking to defend *Mr. Lewis's* side of the question against all persons whatsoever. It seemed very probable that this quarrel would have had a fatal issue amongst some of the parties, when the following piece of ridicule made its appearance, which turned the laugh of the town upon the combatants, entirely crushed the whole affair, and laughed the rules of honour out of countenance. The parties forgave each other sooner than they forgave the author.

FOR THE PENNSYLVANIA PACKET.

I Mentioned in a former essay that my greatest ambition is to become famous by the invention of some ingenious or useful project which shall be generally approved and adopted. At the same time I communicated to the public, a device, which, from its novelty and convenience, I thought could not fail of success. In vain, however, have I looked for that applause which I still think justly due to the fruit of genius, ripened by the labours

of the understanding. The author and his contrivance are no more thought of.

I have at different times, published several other devices of rare invention, which have all found the same fate. Whether the fault lies with me, or with the public, I shall not presume to say; but as my love of fame is invincible, I shall go on projecting and contriving in hopes some lucky hit may accomplish my purpose, by procuring me the honour I so ardently desire.

As I am now growing old in the business, experience and frequent disappointments have taught me to be less sanguine in my expectations; and, like other authors, to depend more on a fortuitous possession of the public caprice than on the intrinsic merits of my own performance.

My present design, which I offer with great modesty, respects an improvement in the art of *printing*; and is a device to render it not only expressive of an author's narrative, opinions, or arguments; but also of the peculiarities of his temper and the vivacity of his feelings.

As I have as due a regard to literary honesty as to any other kind of honesty, I candidly confess
that

that I took the hint from an ingenious work of a *Mr. Steele* of London, who has contrived and published a scheme for noting down, in certain musical characters, the risings, fallings, and various inflections of the voice in common conversation or in public speaking. So that not only the matter of an oration, but even the *manner* of the orator may be secured and transmitted to posterity.

My contrivance has this advantage over his; that no new characters are necessary to it. Those commonly used in printing are sufficient for the purpose. Besides, his project is only calculated to ascertain the *fortes* and *pianos*, and various *slides* of the human voice in speaking; whereas mine is contrived to designate the *fortes* and *pianos*, and various *slides* of the temper in writing.

My system is founded in a practice which nature herself dictates, and which every one must have observed, I mean that of elevating the voice in proportion to the agitation of mind, or earnestness of the speaker. Thus a reprimand is given in a higher tone than admonition: and a person in a fright or in passion, exerts his lungs according to the *quantum* of terror or rage with which he is affected.

Now I would have the degrees of vociferation

—such as *pianissimo*, *piano*, *forte*, *fortissimo*, with all the intermediate gradations designated by the size of the letters which compose the emphatic words. And for this the various species of types from Pearl up to

Five Line Pica,

will afford an ample scale.

THE ingenious authors of advertisements have I confess, in some sort anticipated my design. We often see.

stop thief! stop thief!

bawled out in double Pica Italics. The name of a ship

a ship to be sold, or some choice article to be disposed of, in

English Roman.

AND as a further enforcement to attention, I have seen the figure of a hand, with a crier's bell in the act of ringing, advertising an auction of household furniture. Every one striving to be heard in preference by a superior magnitude of types. At present there are none who roar out in louder, or blacker characters, than the printers themselves for

Rags.

THERE is no looking at the first page of the daily advertiser without imagining a number of people hallowing and bawling to you to buy their goods or lands, to charter their ships, or to inform you that a servant or a horse hath strayed away. For my part I am so possessed with this idea, that as soon as I take up the paper of the day, I turn over to articles of Intelligence as quick as possible, lest my eyes should be stunned by the

ocular

eccular uproar of the first page. For I am a peaceable man, and hate nothing more than the confused noise of a mob.

My project, then, consists in this, that the printer in composing any work should adapt the size of his types to the spirit of his author, so that a reader may become, in some degree personally acquainted with a writer whilst he is perusing his work. Thus an author of cool and equable spirits might take

Bourgeois Roman

for his medium, and would probably never rise higher than

Great Primer;

whilst a passionate man, engaged in a warm controversy, might thunder away in

French
Canon.

It

It follows of course that authors of great vigour, should be charged higher than meek writers for printing a work of the same length, on account of the extraordinary space their performances must necessarily occupy; for these gigantic, wrathful types, like ranters on a stage, or Burgoyne at Saratoga, will demand sufficient elbow room.

For example—suppose a newspaper quarrel to happen between M and L*

M begins the attack pretty smartly in

Long primer.

L replies in

Pica Roman.

M advances to

Great Primer.

L retorts in

Double Pica;

and

* Left some ill disposed person should maliciously misapply these initials I think proper to declare that M signifies *merchant*, and L *Lawyer*.

and at last the contest swells up to

Rascal, Villain, Coward,

in five line pica; which indeed is as far as the art of printing or a modern quarrel can conveniently go.

A philosophical reason might be given to prove that large types will more forcibly affect the optic nerve than those of a smaller size, and therefore become mechanically expressive of energy and vigour; but I leave this discussion for the amusement of the gentlemen lately elected into our philosophical society. It will satisfy me if my scheme should be adopted and found useful.

I recol-

I recollect a case in point ; some few years before the war, the people of a western county, known at that time by the name of the *Paxton boys*, assembled on account of some discontents, and came down in great numbers, with hostile intentions against the peace of government, and with a particular view to some leading men in the city. *Sir John St Clair*, who had assumed military command for the defence of the city on this occasion, met one of the obnoxious persons * in the street, and told him that he had seen the manifesto of the insurgents, and his name particularized by letters "*as long as my fingers.*" The gentleman immediately packed up his most valuable effects and sent them with his family across the Delaware for security. Had Sir John only said, that he had seen his name mentioned in the manifesto, it is probable he would not have been so seriously alarmed ; but the unusual size of the letters was to him a plain indication that the insurgents were determined to carry their resentment to a proportionable extremity

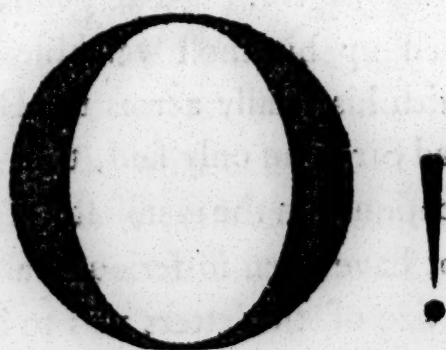
I could confirm my scheme by innumerable instances in fact and practice. The title page of every book is an example. It announces the subject treated of in conspicuous characters ; as if the author stood at the door of his edifice, calling out

to

* Israel Pemberton.

to every one to enter and partake of the entertainment he has prepared ; and some even scream out their invitation in red letters.

THE journeymen printers have also a custom founded on the same principles. They distinguish every sheet of printing by a letter of the alphabet, which may be seen at the bottom of the first page of every sheet in any book. When they have proceeded in this alphabetical enumeration as far as the letter O, they are sure to send the editor a proof sheet with an



as big as a dollar ; intimating, that the fatigue and labour they have gone through is so great, as to make them cry aloud for some gratuitous refreshment.

It was reserved for me to improve these hints into a project of general utility. It is indeed high time that such a system should be formed and divulged.

vulged. For what, alas! are a few *Capitals* and *Italics* in the hands of a vigorous author? and yet these are the only typographical emphatics now in use. In personal altercations, nature has furnished ample means of expression. The muscles of the face; the motion of the eyes; the action of the body; the limbs, and even the hands and fingers—all unite in enforcing the feelings of the soul, and giving additional expression to language—Let art do the best she can in cases where these natural signs of sentiment cannot be displayed.

It is truly lamentable, and has given me much concern, to observe with what languor a late religious dispute, and also a late law controversy, have been conducted; not for want of a proper spirit in the combatants, but merely for want of sufficient vehicle of rage and resentment.

For these reasons I hope my proposed improvement in the art of printing will be eagerly adopted by gentlemen disputants, and no less so by the gentlemen printers: as the one will find a new and comprehensive field opened for the exhibition of their refined sentiments, exquisite sensibilities, and energy of thought; and the other derive no small emolument from the advanced prices which they may reasonably charge for
printing

printing the controversial essays, and vigorous effusions, of men of spirit and high education.

I am, I confess, enamoured of my project, and heartily wish some quarrel, may soon take place and swell even high as high as

Five Line Pica,

that the whole system of typographical expression may be displayed in one energetic example, and the utility of my project fully manifested—Just as Mr — of the humane society, anxiously waited, and I believe secretly wished that an accident might happen to evince the efficacy of a grappel he had contrived

contrived for discovering and drawing up drowned bodies.

LEST, however, such a quarrel should not speedily occur

I hereby give public notice

(in English Roman N° 1.) that having nothing else to do, and having no wife or child to lament the consequences of my folly, I propose to take up any gentleman's discontent, animosity or affront, and to conduct the same in public contest against his adversary as far as

Great Primer,

or even

French
Canon,

but

but not further, without the special leave of the original proprietor of the quarrel, provided ; however, that the dispute began in

Bourgeois Romani

for if it originated only in

Pearl,

Nonpareil,

or

minion,

I shall hardly think it worth my notice.

To shew that I am in earnest in this offer, I shall leave my address with the printer of this publication, that any gentleman quarreller may readily find a champion for the cause which he does not choose to championize himself.

I anxiously wait the issue of this my proposed scheme ; not without sanguine hopes that it may prove the lucky hit I have been so long pursuing,

and procure me that public renown and popular favour, which, hitherto, I have in vain laboured to acquire.

July 1786.

PROJECTOR.

VOL. II.

N

OBSER.

[194]

O B S E R V A T I O N S

OF A

FOREIGNER

ON THE

JURY TRIALS OF ENGLAND.

COMMUNICATED IN A LETTER TO HIS FRIEND.

London, Feb. 15, 1784.

DEAR COUNT,

I Informed you in my last of the rout I took to arrive at this great city. I described as well as I could, the places I passed through; the manners of the people; the incidents that occurred; and the impositions to which I was obliged to submit. I hope my letters got to hand; not only because they cost me no small trouble to write—by *trouble*, I mean

mean confinement, which you know I hate—but because I think they will afford you some amusement.

WELL—here I am, and here I have been since the beginning of December last. I have several times attempted to continue my narrative and opinions for your entertainment, according to promise, but could not find myself disposed to sit long enough for the purpose. At present I am necessarily confined by a severe cold; and to this indisposition you are indebted for the letter I am now going to write. You will sincerely wish me better health, when you shall know the dulness of the subject I have undertaken.

You will reasonably expect some account of the polite amusements of this metropolis—the manners and taste of the fashionable world—their theatres, concerts, Ranelagh, Pantheon, &c. &c. &c. But no; I will give you these some other time. At present I have a very different object in view, which has happened to engage much of my attention; and, as I always sit down to write what I think, not to think what I shall write, I must take the subject which impresses my mind at the time, or not write at all.

THE great question—"What is the best form of government?" seems as far from being determined as ever; the politicians of different nations not having come to any compromise on this important subject. The reason, I suppose is, because no form of government can be devised that shall necessarily involve in itself the happiness or unhappiness of the people. There is, in fact, no mechanical affinity between these two objects. The multitude are happy or not, according to their ideas of the government by which they are restrained; and these ideas are not the produce of speculative knowledge, but are derived from the prejudices of education: whilst the more enlightened judge of government by the manner in which its powers are exercised and justice administered. So that instead of determining on the happiness of a people by the nature of their political constitution, we should reverse the position, and judge of their political constitution by its effects on the people; or, in other words, that is the best government which is best administered. This truth seems to be generally admitted by writers on the subject. The pursuit now, is not for a form of government that shall necessarily and mechanically make the people most happy; but for such a constitution as may be most effectual in securing them from being made miserable.

GREAT-BRITAIN is, I believe, the only nation that hath fairly tried the experiment. All other governments, that I know of, have certain designated characters: they are either despotic, monarchical, aristocratical, or democratical. But the English constitution is none of these, and yet partakes of the nature of each. Their writers tell us, that by mixing the forms, they enjoy all their respective advantages, and that they reciprocally check each other, so as to counteract all their peculiar dangers and inconveniences.

ALL this is made very clear in theory; but if we attend to facts, we shall find that the scheme does not fully answer the great purposes it seems to promise. Their history is a proof; wherein we see perpetual struggles between the crown and the people for encroachments of power on the one hand, or an extension of privileges on the other: and their annual publications, and frequent changes of men in office, in modern as well as ancient times, shew them to be subject to all the evils of faction and instability. The truth is, that so nice an adjustment of so complicated a machine—such a due proportion of strength in the component parts that they shall not interfere with or impede each other—such an accurate disposition of heterogeneous powers, that each shall naturally find out its own

specific gravity, and rest in quiet, can only exist in theory ; the passions of mankind will ever prevent its continuance in fact.

DON'T be alarmed : I am not going to discuss this intricate subject at large ; I wonder how I got so far into it : I have neither leisure, inclination, or ability to pursue it. I had fixed my attention only on one particular part of the English constitution, on which I mean to give you my sentiments ; and respecting this, I have been for some weeks past making assiduous and minute enquiries—I mean the *administration of justice by grand and petit juries*.

I must first give you as concise a detail as I can of this establishment, that you may the better understand my observations upon it.

GRAND JURIES are only made use of in cases of criminal process, or public offence ; *petit juries* in all cases of trial, whether for a breach of the laws, for private wrongs, or property in dispute.*

THE sheriff of the county or district, in pursu-
ance

* There are some species of trials in England, where juries are not concerned ; but it is not necessary to enumerate them here, as my present object is only the trial by juries.

ance of a writ directed to him by the judges, makes out a list of 24 honest and substantial free-holders, that is men of character, who possess a real or landed estate in the county. To each of these he sends a written or printed notice to attend the court on a certain day. If the sheriff does his duty, these ought to be men most respectable for property, integrity, and abilities ; so that poverty may not induce them to a corrupt abuse of their office, or ignorance lead them to an absurd exercise of it.

NOT less than twelve, or more than twenty-three, are competent to the formation of a grand jury. Generally from fifteen to eighteen are considered as a suitable number.

WHEN these are convened in court, the oath of office is administered to them, which is a very strict one. They swear that they will not accuse any person for hatred or malice ; or suffer any offender to escape unaccused from any favour or affection, or hope of reward. Thus qualified they retire to any apartment they please to perform the duty the law hath assigned to them.

THEY are called the *grand inquest* for the county : because it is their business to enquire of all offences that may have been committed within that district,

district, and present them to the notice of the court. They are to receive information from every source; but particularly from the officer called the *king's attorney*, or the prosecutor in behalf of government. The bills of accusation are all framed by this officer, who sends them to the grand jury for enquiry, together with the witnesses in support of the bills.

THE jury then proceed to make a careful investigation of the charge, to examine the witnesses, and consider the whole matter in a large and liberal view; but the accused person is not suffered to appear and make his defence, this not being the time assigned for that purpose.

IF the grand jury, or a majority of them, find sufficient cause to believe that the party is guilty of the crimes alledged against him, their foreman, in behalf of the whole body, endorses on the bill *billa vera*, or a *true bill*; if otherwise, he endorses the word *ignoramus*, as much as to say, this charge may be true, but we do not know that it is so. The rejection of a bill by the grand jury does not operate as an acquittal; for the party may be again indicted for the same offence, if fuller testimony in support of the accusation can afterwards be procured.

THE bills, thus endorsed, are brought into court and delivered to the judges. The party against whom the bill is found (as it is called) must be then sent for, and personally appear in court. If this cannot be done, the trial must be put off till he can be taken and brought to answer.

WHEN the accused person appears, the bill, now called an *indictment*, is distinctly read to him by the clerk of the court, who peremptorily demands of him whether he is *guilty* or *not guilty* of the charge as laid in the indictment. If the party absolutely refuses to answer, the court cannot, according to the strict rules of common law, proceed against him ; because he does not voluntarily submit his cause to that jurisdiction, by assenting to or denying the accusation : for the law does not allow that any court hath an official power to determine on a man's life or property, unless by his own act he consents, or seems to consent, to submit himself to its jurisdiction ; and this is supposed to be done by his entering his plea, that is, by acknowledging or denying the charge brought against him.

THERE have been instances in former times of persons standing *mute*, and refusing to plead to the indictment ; to remedy which, a most absurd and barbarous practice was admitted to enforce an answer.

swer. The party was taken to prison, and laid upon his back, naked, on the floor of a dungeon, his arms and legs were tied by four cords to the four corners of the dungeon: he was sparingly fed with the most coarse and ordinary bread that could be got, and drink brought him from the nearest kennel; a weight was also laid upon his breast, and a like weight daily added, until, by his intolerable situation, he was compelled to answer *guilty* or *not guilty*. This operation is called in their books *paine forte & dure*. But this savage process is now obsolete: and it is declared by statute, that standing obstinately mute shall be an equivalent to a confession of guilt, and sentence shall be passed accordingly. The case never occurs now. The prisoner generally pleads *not guilty*, and is thereby said to join in issue, and put himself upon his trial. If he is a stranger, or so poor that he cannot engage an advocate to assist him in his defence, the judges always assign him council, and allow him some short time for preparation.

WHEN the day of trial comes, the prisoner is again sent for to court; for it is essential to the process that he should be personally present during the whole business. The sheriff hath previously summoned a number of persons to serve on the *petit jury*. Twelve persons, and no more, are necessary

ſary for this purpoſe ; but he generally returns forty-eight or more names to the court, according to circumſtances, becauſe the accuſed hath a right to make many objections. Theſe names are called over in court, and the perſons who appear are preſented one by one before the priſoner, who is deſired to look at him, and ſay whether he has any objection to his being one of the jury which is to determine his fate. If the crime charged is capital, the priſoner has a legal right to *challenge peremptorily* twenty of the perſons offered for jurymen, that is, to ſet them aſide from caprice, from a diſlike to their countenances, or any other ſecret motive, without giving any reaſon for his ſo doing ; and he has, moreover, a right to challenge or object to as many more as he can give ſufficient reaſons for rejecting : ſuch as the perſon offered being in any degree intereſted in the event ; his having prejudged the matter, by declaring his opinion in converſation ; his having heretofore been convicted of perjury, with many other cauſes of legal diſability.

WHEN this investigation is gone through, and twelve unexceptionable perſons appear, who have all been ſworn, *well and truly to try the cauſe depending, and a true verdict give according to the evidence*, they are put together in a convenient place,

place, to hear the whole matter, and must not separate until a final decision is given; nor must any person whisper or speak to them (except when they ask questions of the court or of the witnesses) or deliver any message or writing to them; any of these happening would vitiate the whole process. Yet the judges, the lawyers employed, or the prisoner, may address them aloud in open court. If a juryman should have occasion to retire during the trial, he must ask leave of the court, and a constable must attend him the whole time of his absence, and the proceedings must be suspended till his return.

THE trial commences by the king's attorney* reading the indictment aloud to the jury: after which he produces his witnesses in support of the accusation. These witnesses must all be examined on oath, and deliver their testimony *viva voce* in the presence of the prisoner, and of the whole court. After the king's attorney hath done with a witness, the advocate for the prisoner cross examines him: he asks him questions which may tend to embarrass him: he presses him as to the certainty of his knowledge: he endeavours to make him contradict himself; or say something that may indicate
passion

* Or the clerk of the court for him.

passion or interest; and exercises every art that may tend to invalidate his testimony, or weaken its force. If these manœuvres, however, are carried too far, the judge will, or ought to, interfere, and check a too great licentiousness in the treatment of a witness. When the king's attorney hath produced all his testimony, he addresses the jury; he recapitulates what the witnesses have advanced; he enforces the law, and applies it to the present case; and supports his arguments by authorities from the books respecting cases of the like nature.

THE council for the prisoner then produces his witnesses in behalf of the accused, who are also severally cross examined by the king's attorney. When the whole of the testimony has been exhibited, of which the judges and the council take notes in writing, the lawyer for the prisoner begins his defence: he dwells upon, and enforces every favourable circumstance: he endeavours to invalidate or throw doubts upon the proofs against him: he labours to explain away the law, and finally addresses himself to the tender feelings of the jury. He must now display the whole of his abilities, for he is not allowed to speak again. The king's attorney then replies; he obviates the objections that have been made, either to the testimony or to his

his statement of the law ; he points at the weakness of the defence ; and enlarges upon the proof against the prisoner ; and, lastly, submits the whole matter to the determination of the jury.

THERE is then a customary, but not a necessary, indulgence allowed to the prisoner in capital cases : and this I think a very pathetic part of the process. The accused person has been all this time a silent spectator of the proceedings ; but he is now permitted to address the jury himself, and tell his own story in his own way.

THIS, considering his critical situation, is certainly a very interesting part of the ceremony ; especially if the party is indeed innocent of the crime alledged, but labouring under a combination of unlucky circumstances and untoward appearances. I have been more affected by the simple narrative of the prisoner himself, than by all the finished eloquence of the council who undertook his defence.

AFTER this, the judge sums up the whole of the testimony to the jury : he omits unnecessary details, and brings pointedly into view all those circumstances which are of any importance either for or against the prisoner : and opens and ex-

plains the law, if in the least doubtful, and often instructs the jury what determination they ought, in his opinion, to give.

THE jury, being now charged with the whole matter, are conducted to some private apartment, where they are shut up, and a constable is placed on the out side of the door; and there they must remain, secluded from all external communication whatever, without meat, drink or sustenance of any kind until they shall have *unanimously* agreed in their judgment. Any *one* dissenting voice will annihilate the verdict or decision. When they have all agreed, they give notice thereof to the constable at the door, who immediately sends information to the judge. The court, if not then sitting, forthwith convenes, and the prisoner is again sent for; for it is absolutely necessary that the verdict should be given in his presence. The jury then come into court, and the clerk having called over their names, to shew that none are missing, asks them if they have agreed in their verdict?—they answer in the affirmative. He then demands of them, whether the prisoner is *guilty* or *not guilty* of the crime with which he stands charged?—to which the foreman of the jury, in behalf of the rest, answers *guilty* or *not guilty*, as the case may be. This the clerk immediately re-
cords

cords ; and then desires the jury to attend to their verdict, as the court hath recorded it, demanding assent, which is again given.

THIS determination is called a *verdict*, or *vere-dictum*. Because the law presumes that whatever twelve impartial men, so selected, so sworn, and so instructed, shall, with united voice, declare, must inevitably be the truth : neither will the law suffer a verdict, so given and recorded, to be afterwards doubted or contested.

IF the prisoner has been found *guilty*, the judge asks him what he has to say why the sentence of the law should not be pronounced against him? For, even in this last stage, the prisoner may, if he can, shew some defect in the proceedings, some uncertainty in the indictment, or other irregularity of force sufficient to arrest the judgment. For when the law presumes that the jury have delivered the truth, it supposes the whole proceedings to have been fair, regular and legal ; otherwise the verdict is not founded on such a basis as the law requires, and therefore is not that legal uncontrovertible truth it looks for. If the prisoner has no such plea to make, judgement is pronounced against him ; and he has no chance left but that of the king's pardon.

THERE are several minutiae in this process, and some exceptions which I have omitted ; but the above is the general outline of trial in criminal cases.

IN disputes about property, and actions for damages, the same principle pervades the conduct of the suit ; that is, to give the accused person all possible opportunity of defence. In civil causes, however, there is no grand jury ; neither of the parties have a right to make peremptory challenges ; and the jury are not so rigidly treated as in cases of life and death ; yet their determination or verdict must be *unanimous*, as in the former case ; and there is no reversing their verdict, but by discovering some error in the proceedings, or some fraud or corruption in the jury

SUCH is the mode of administering justice in this country. A system which is deemed the palladium of British liberty, and the subject of perpetual panegyrick. And no wonder ; since, as a system, nothing can be more perfect ; inasmuch as it is calculated to shield the poorest individual in the community against the secret strokes of wealthy malice, or the open violence of overweening power.

BUT I have given you a delineation of what the practice ought to be, not what it may be. If the several parts of this machine should in all instances operate according to their respective destinations, and no further, it would be very difficult for a guilty person to escape, and next to impossible that an innocent man should suffer: and in contests about property, there would be the greatest reason to expect that impartial and substantial justice must take place.

I could myself enlarge, with the zeal of an Englishman, on the external beauty of this admirable fabric, and its apparent strength as a bulwark against oppression. But let us now consider the diseases to which this constitution is liable, and how far the good purposes of an excellent theory may be evaded or perverted in the execution.

IN the first place, the sheriff selects and returns such persons as he pleases to serve on both juries: and here he has uncontrolled opportunity of gratifying his own partialities, if he has any, respecting the persons to be tried, or the cause depending: for it matters not what private passions or prejudices the juries may have, provided they are *legally* unexceptionable; and popular governments are so subject to party rage, that such partialities in the sheriff may sometimes be expected.

INDEED

INDEED, it is not uncommon for people here to form a judgment of the issue of a doubtful cause, from a knowledge of the jury which is to determine it. It is to guard against the sheriff's *packing* a jury, as it is called, that peremptory challenges are allowed in capital cases.

WHEN the grand jury is formed, the judge always addresses them from the bench. This is called charging the grand jury, and should, according to the original design, be no more than a general delineation of their duty, and the law definitions of the crimes and offences of which they are to make enquiry, and present to the jurisdiction of the court: because these men being selected from the mass of the people, are not supposed to be versed in legal precision and niceties. But the judge often takes this opportunity of going farther: he insinuates to them, that they may indict on mere *probable* testimony; that they should attend only to the testimony in behalf of the prosecution, and have nothing to do with any witnesses but those whom the king's attorney shall send to them; and that if they find the bill, it will amount to nothing more than a kind of legal accusation, which, if wrong, will be afterwards set right by the petit jury. But this is a deviation from the original constitution, which placed the grand jury at the first entrance

of the law to screen the innocent from malicious prosecutions. For what with confinement, expence, and infamy, a man may be effectually ruined by the grand jury's finding a bill against him, although he may be afterwards fully acquitted by the petit jury.

THUS charged, however, the grand jury retire. Now it should be considered that these are called off from their ordinary business to perform a temporary duty, not very agreeable in itself, and attended with no profit; but, on the contrary, somewhat expensive. The ideas they have imbibed from the charge, have a great tendency to relax the binding force of their oath of office: their present duty is in the law line, and they do not pretend to understand law: but the judge who does understand it, has instructed them; and on his opinion they rest the sanctity of their oath, and the rights of their station. When such principles prevail, the real use of a grand jury is in a great measure set aside, and the institution becomes rather a burthensome ceremony, than a real advantage.

THE judge has a manifest influence over both the grand and petit juries; but he must exercise this with moderation and discretion; for the people have in general a pretty just knowledge of their

their fundamental rights ; these they will suffer to be impaired through indolence, inattention, or persuasion, but will never suffer them to be directly violated or called in question. The judge may insinuate any thing, but if he openly assumes unconstitutional powers over the jury, he is sure to be opposed with invincible firmness. And when ever an open contest of this kind happens, the jury will certainly have the popular current in their favour, unless they should be so notoriously in the wrong as to preclude all defence of their conduct.

THE petit jury, are now to be formed, or, as it is called, *impannelled*. And here again is a large field for contrivance and address. In suits for damages or for property, great dexterity is exercised on both sides for securing proper men on the jury. So great are the apprehensions of unfairness and disadvantage in this particular, that it is common for the parties in the suit to demand that the cause shall be tried by what is called a *struck jury*. When this happens the prothonotary, or clerk of the court, makes out a list of 48 good and lawful men of the county, and from this list the parties, or their attornies for them, alternately strike out the names of such as they do not approve until there are but 24 names left. These

24 are summoned by the sheriff to attend the court, and the first 12 of the number who shall make their appearance on the day of trial, and answer to their names, are to compose the jury who are to determine the cause.

AFTER the jury have been impannelled, have heard the testimony and the arguments, and the judge has summed up the whole matter, they retire to form their verdict. For this purpose, as I before observed, they are excluded from all external communication, sustenance, or comfort. By these means they are compelled to make up a unanimous opinion or starve, be the case never so doubtful or difficult. In this lies the principal fallacy of the system; inasmuch as it is next to an impossibility that twelve men, of various tempers, abilities and knowledge, should freely and decidedly unite in judgment on a disputable and uncertain case. The truth is, they seldom suffer any great extremities for conscience sake*. The last impressions they received came from the judge; his station, his authority, his knowledge in the law, will give an almost invincible force to these impressions. And the result is, that nine times in ten, the verdict, especially in civil cases, is made conformably to his opinion.

THE

* "And wretches hang, that jury men may dine." *Garth.*

THE designated legal power of an English judge is not very considerable; but the *official influence* he has over the determinations of juries, subjects, in a great degree, the lives and property of the people to his judgment or caprice. And this masked power is the more dangerous; because, if he should be partial, unjust, or corrupt, his conduct is screened by the intervention of the jury, the final decision being their verdict, not his.

BUT suppose the judge states the case impartially to the jury, without making any attempt to bias their judgment; the consequence is, that some leading man in the jury will bring over the rest to his opinion, or some very obstinate man wear out the patience of his fellows. There have been instances when eleven have agreed upon a verdict and the persevering twelfth has compelled them to change their minds, and yield to the superior strength of his constitution. It often happens that a verdict is put to the vote, and the minority accedes to the opinion of the majority. But most commonly the verdict is determined by the advice of the judge, or the opinion of one of the jury of more reputed knowledge than the rest. So that in disputable cases, it seldom, if ever, happens that the final verdict is that free, clear, and unanimous decision of twelve impartial men, under oath,

oath, which the law presumes, and which the system requires. If two or more of the jury should be of contrary opinions, and neither will give way, no verdict can possibly be given in. In such a case, which sometimes occurs, there is but one remedy, which indeed is not countenanced by law, but suggested by necessity. It is this. The sheriff, or some body for him, steals away one of the jury from the bar, so that when the clerk calls over their names, it is found that there are but eleven jurymen, and this invalidates all the proceedings. The business must be put off to another court, and the whole process begun *de novo*.

IF, when the verdict is given in, the judge should not approve of it, he sometimes takes the liberty of sending back the jury to reconsider the matter; but if they persist, he must finally submit and record the verdict. But such cases seldom occur. In general the juries take their tone from the judge's charge. When they have given in their decision, they are discharged, and disperse, and are never after accountable for what they have done, unless in cases of manifest corruption. It is with them, as with all popular bodies—the individuals never think themselves responsible for what the whole have done.

IN

IN causes which do not so much depend upon expositions of law, such as an equitable adjustment of long and intricate accounts, or satisfaction for injuries which cannot so well be ascertained by legal testimony, it is customary for the contending parties to consent in open court to a reference. Whereupon the judges nominate three or more indifferent persons to hear and arbitrate the matters in variance. These arbitrators are not compelled to be unanimous, neither are they subjected to the other restrictions of a jury. They meet when and where they please, they investigate the business in their own manner, and in their own time, and finally send their award in writing to the court. And this award, when received and recorded, becomes the judgment of the court.

ARBITRATIONS are liable to this imperfection. The arbitrators not having the opinion of the judge to rest upon, not being restrained by rigid rules, being few in number, and moving in an enlarged sphere of investigation, are more pointedly and personally answerable, in reputation at least, for the rectitude and propriety of their determination. In this situation, the general aim, in difficult cases is, if possible, to satisfy both the contending parties, and so avoid the complaints or censures of either ; and this they frequently accomplish

comply by halving the value in dispute between them, when it can be done ; and thus substantial justice is done to neither.

ALTHOUGH the English law leans so strongly in favour of the accused in criminal cases, giving every reasonable advantage to the party who is put upon his defence, yet the form of process is so decided, and so well understood, that unnecessary delays seldom occur ; but this is far from being the case in civil actions, which are attended with so many complex circumstances, forms, and delays, all which incur a considerable expence, that the plaintiff, unless in very plain cases, such as an undisputed bond, or note of hand, had better put up with a small injury or loss, than to prosecute his suit, although in the end he should prove successful. For here the law is so unreasonably in favour of the defendant, and allows him so many dilatory pleas, causes of adjournment, and removals from court to court, that a wealthy wrong-doer, with the help of able council, may weary out the most equitable claimant by exhausting his patience and his purse.

WHEN an action is brought, the right or wrong of the case, or what is called the merits of the cause, never come into view till towards

wards the close of the business. The only question is, whether the plaintiff hath brought, and conducted his claim, according to the strict forms of law, which forms are not settled by any code or determinate system; but must be gathered from the authorities, that is, from the reports of former determinations when like points of process have been contested. The intention of throwing these obstacles in the way of justice is to prevent the plaintiff from over-reaching the defendant in any stage of the process. But the evils attending this extreme caution are more than a balance to the dangers it is designed to obviate.

It would be in vain for me to give you the history of the many causes of delay that may legally occur in the pursuit of a manifestly equitable title to a tract of land, whole volumes would be insufficient to the purpose; my present object only respects the mode of trial by jury, not the general practice of the law in this country.

THE result of my observations amounts to this, that perfection is not to be looked for in human institutions. The British form of government, as well as British jurisprudence, exhibits a specious appearance of perfect security to the subject; but this perfect security exists only in the theory;

theory ; the proposed object of the system is to ensure to the people all the good effects of wisdom and integrity in their rulers and officers of justice ; but wisdom and integrity are absolutely necessary to the due execution of the plan. So that the effects promised must in fact precede the operation ; which is a political *petitio principii*.

IN England, all laws are supposed to be made by the free consent of the people, by means of their representatives ; and judical decisions to be the verdict of twelve impartial men, unanimous in their opinions. Neither of these positions are strictly true in fact. It is most notorious, that, in the first case, the members of parliament frequently purchase the voices of the people, and afterwards sell their own and votes to the king or his minister ; so that the king can almost always command a majority of parliamentary voices. And, in the second case, the authority of the judge most commonly influences the verdict of a jury ; so that in truth, the king makes the laws, and the judges execute them, whilst the people only *seem* to do both ;—and they remain content with this *seeming*, until administration becomes too manifestly oppressive and corrupt. When this happens they struggle for original rights, by
in-

insurrections and revolutions ; which is the popular remedy common to every government, when that government is so exercised as to become insupportable.

THESE remarks may perhaps appear too severe, but they are founded in truth. A candid Englishman would acknowledge, that the imperfections I have pointed at, may, and sometimes do, occur in their political system ; but he would urge, and with some reason too, that, all circumstances considered, all evils balanced, and all inconveniences averaged, the constitution of his country is the safest and best yet devised for uniting these two difficult problems—*The security of the people's rights, with the dignity and vigour of government.*

I will readily acknowledge, that, upon the whole, justice is well administered in this country ; but I believe this is more owing to the abilities and integrity of their judges, than to the infallibility of their system. A bad judge might be a curse to the people, without directly violating the legal rules of his official conduct.

FOR my own part, I am of opinion, that the happiness of a people depends more upon their
national

national character than their form of government. A truly enlightened people cannot be enslaved. real despotism cannot be exercised, unless the mass of the people are either stupidly ignorant, grossly licentious and immoral, or extremely begotled. In the first case, they submit to every imposition, because they know nothing of the rights of nature, or the origin of delegated power; in the second, they become enervated by luxury, and indifferent to those rights and privileges, of which they have rendered themselves unworthy; and, in the third, their tyrant will take care to have the priesthood on his side, and make the consciences of his subjects the chains by which he will hold them in the most abject servitude; or, which is not improbable, the priesthood will be themselves the tyrants, and keep both the sovereign and his people under a most rigid controul.

Of all the means by which a nation may be made miserable, this last is the most wicked and most effectual. Freed from this servitude, a people cannot, in this age of the world, long remain either stupidly ignorant, or grossly immoral; but inexorable bigotry and rooted superstition lock up the doors of knowledge and preclude reformation.

No

No nation was ever famous for advancements in arts and sciences, for discoveries in the truths of nature which enlarge the mind, or the inventions of improvements, which add to the happiness or convenience of mankind, whilst they were compelled by the prejudices of education, or the rigour of the laws, to yield implicit faith and obedience to the priesthood—Quere—Which was the most beneficial character to the world—the man who invented the *Spinning wheel*, or he who composed the *Athanasian Creed*?

BUT I am wandering far from my subject, and have unexpectedly made my letter of an unreasonable length. Had I foreseen how far my dissertation on jury trials would have led me, I should probably not have undertaken it.

BUT what business have you or I with British jurisprudence? this question never occurred to me till now. If it had—I might have saved myself a deal of writing, and you much dull reading.

I shall leave this city in four or five weeks and pass over to France. You may expect to hear from me, in a more entertaining style when I get
to

to paris. Till then—Adieu ! And believe me
when I assure you that I am,

Dear Count,

Your, &c. &c. &c.

THE

AN attack was made upon the Bank of North America, by a then prevailing party. *Mr. T. Payne*, author of a very popular pamphlet, which he published in the beginning of the late war, under the title of *Common Sense*, took up his pen in defence of the Bank. This performance occasioned the following ironical answer; which, however, was never published; as the succeeding house of assembly soon repealed the act for disfranchising that institution.

THE REMARKS OF UNCOMMON SENSE

ON A LATE PAMPHLET ENTITLED

DISSERTATIONS ON GOVERNMENT,

THE AFFAIRS OF THE BANK, &c.

BY THE AUTHOR OF COMMON SENSE.

1785.

IT is said of *Archimedes*, that he would have undertaken to move the globe of the earth, provided a place could be had whereon he might erect his machine. So it is with speculative authors in every

VOL. II.

P

science.

science. Grant them only a few first principles or *data*, so called, because they must depend upon the reader's benevolence for admission, being either not true in fact, or incapable of proof; I say, grant but these, and the subsequent reasoning cannot easily be controverted. Give an ingenious author a point whereon to rest the fulcrum of his argument, and he will move whole systems, physical, moral, or political.

THE manifest purpose of the pamphlet before me is to justify the *Bank of North-America* as a useful institution, notwithstanding that it hath been declared by act of assembly to be a pernicious corporation, and incompatible with the public safety; and to shew that the legislature had no legal right to deprive it of its charter; and also to censure and ridicule a respectable committee of the house, upon whose report the act for disfranchising the bank was founded.

IN order to prove that the assembly had no right to retract a charter once granted, without some legal forfeiture or breach of conditions on the part of the grantees, he rests the fulcrum of his arguments on certain first principles of government. Now, if these first principles should be found on examination to be laid on hollow ground; that is, that
however

however true they may be in reason, they are not true in fact, it will follow, that the author, the pamphlet, the argument, and the bank of North-America, must all sink together—Let us then take a short view of this writer's ground work.

COMMON-SENSE tells us, that in all governments there must be a sovereign power somewhere; and that the repository where this sovereignty is placed is the first criterion of distinction between a despotic form of government and a free country: that in the first, it is possessed by an individual in hereditary right; in the second, it is held by the people at large, and by them periodically assigned to their delegates or representatives.

THE fallacy of this supposed axiom consists in his considering sovereign power as a simple elementary principle; whereas it is manifestly divisible into at least two component parts: viz. *power*, considered only in reference to the act or thing done, or to be done; and *will*, considered as influencing and dictating the exercise of that power. For instance, in a mill, the *power* of grinding corn is in the stones, wheels, and movements of the machine; but the *will* is in the miller, who superintends and governs its operations.

A mere act of *power* may be exercised without the concurrence of the *will*: and that there may be a *will*, without a *power* to carry it into effect, will not be denied. Now the true criterion of distinction between a despotic rule and the free government of Pennsylvania consists in this; that in the former case, the *will* and *power* are both inherent in an individual and his successors; whereas in Pennsylvania, the *power* of making laws is in the house of assembly; but the *will* that suggests, dictates to, and influences this *power*, is lodged with certain learned and worthy persons, who are not members of that house, and who are not vested with the power of actually making laws.

I begin to perceive that I have involved myself in a very difficult and subtle argument—I wish I may be able to make myself understood.

A majority of voices in the house of assembly have an undoubted right to order the seals of the commonwealth to be affixed to a bill which hath previously passed the forms of legislation. The seals being thus affixed, that bill becomes a law, binding on all whom it may concern, being citizens of the state. Now this is a mere naked act of *power*, the authenticity of which does not at all depend on a genuine

genuine concurrence of *will* in those who exercise it ; for the *will* is either directly or remotely the offspring of the understanding ; yet the law would be valid, although the majority that voted it into existence, should be totally ignorant of its principles and operation.

I will put a case, which I confess, is a very absurd one ; but it will serve to illustrate my argument.

SUPPOSE a contest should arise respecting the true translation of a passage in the original Hebrew bible ; and that this difference of opinion should occasion such hot disputes and angry parties in the state as to make it necessary for the legislature to interfere and determine the point. Suppose innumerable petitions *pro* and *con* to be laid before the house, and that at last a committee should be appointed to *enquire* and report upon the merits of the question. This committee having no knowledge of the Hebrew tongue will naturally apply to some learned men—heads of one of the parties, but not members of the house, who will tell them—
 “ This is a business you do not understand—assemblymen never read Hebrew, they only read newspapers—but we will draw up a report for you.” The report is accordingly drawn up by
 P 3 these

these learned men—the committee adopt it—they lay it before the house—a bill is drawn conformably thereto, and passed into a law, and so the question is decided. Now, in this transaction there is a manifest separation of the *will* from the *power*. The committee had the power of presenting the report, and the house of passing it into a law; but neither the committee nor the house could possibly exercise any *will* on a subject of which they had not the least knowledge or understanding. Their *will* might, indeed, be exercised in the service of the party they wished to favour, but not in the decision of the question.

On these principles I venture to assert in vindication of a late committee on the affairs of the bank, against the aspersions of *Common Sense*, that, let their report be proper or improper, let the law passed thereupon be just or unjust, no censure can possibly lie against the committee, because, some few instances excepted, no man is responsible for an act in which his *will* did not concur.

BUT the committee does not stand in need of this or any other defence: their report was perfectly just and proper, and exhibited an intimate knowledge of the constitution and tendency of the bank of North-America: as I shall fully shew
when

when I come to enumerate the high crimes of the president, directors, and stockholders of our national bank.

SOVEREIGNTY being thus divisible into *will* and *power*, the advantage of our free government consists in this, that let who will exercise the *power* in the house of legislation, the *will* of government may be possessed by worthy and enterprising men out of the house, by which the labour of law-making is divided and becomes easy and advantageous.

ON this singularity in our political system is founded a doctrine, not long since advanced by learned men, which, if established, must fully answer the purposes of those who discovered it, viz. that assemblies, juries, and such confidential appointments are nothing more than LEGAL MACHINES,* designed to give legal sanction to the views of those, who from superior abilities and official greatness, are best qualified to influence and direct them. It would be a strange thing indeed if the mill should grind what sort of grain it pleased, and go, or stop, according to its own caprices.

THAT *Common Sense* has taken a wrong ground of argument is plain from this. He gives a copy
our

* See Vol. I. p. 205

our bill of rights, and from thence deduces his system of reasoning. It had been more to the purpose, if, instead of a bill of *rights*, he had given us a bill of *facts*. A bill of rights is a very useful thing in the commencement of a commonwealth ; like leading strings for a child it assists it in walking before it has strength to go alone. But when the government is established, what occasion can there be for a bill of rights ? When the house is built, the scaffolding should be taken away. When the Ship is launched, she leaves her former supports behind.

It may be asked if the bill of rights and our frame of government are no longer to be regarded, where shall we look for a rule of conduct ?

I answer, *precedent* will always furnish sufficient rules of conduct. In the commencement of a republic, it is plain there can be no *precedents* : all things are then new ; and a bill of rights, and a designated constitution, must be the standards of authority. As the republic advances in strength and stability, *precedents* sprout spontaneously, kill the roots of original rights, and in time occupy the whole ground. The only difficulty is to create and establish the first precedent. This done, it will

will soon become a powerful engine. Like an anchor to windward, it will enable the skilful pilot to warp the ship against wind and tide. It will also prove very prolific; for a good *precedent*, like a good potatoe, contains within itself the eyes or germs of many future precedents or potatoes.

FOR example—In an early period of our political existence it seemed no great impropriety that committees of the house of assembly should take the opinions of the judges on questions respecting mere law-points. But this soon grew to a custom of sending not questions only, but the bills themselves, to the judges for consideration. Thus encouraged, their honours soon undertook to recommend, and even draw petitions to the assembly for or against measures which they wished to promote or oppose; to frame reports for committees; and originated bills for the legislature; and to establish, by *precedent*, an out-of-doors influence, so strong as virtually to possess the *will* of government; leaving to the house of assembly the more *mechanical power* of enacting laws.

THUS hath a total change, in effect, taken place in our constitution. We began with a single branch of legislation, and it is manifest that we have

have now three distinct branches, viz. an upper house, a lower house, and a legislative council. Our upper house, it is well known, meet at the state house in Chesnut Street; the lower house assemble at the Indian Queen in Market Street*, and the judges from the supreme court form the legislative council. This council, in conjunction with the lower house, is the repository of the *will* of our sovereignty, having a direct influence upon the acts of government whilst under deliberation. And the council have, by *precedent*, acquired a separate and exclusive right of *revising, altering, and amending*, the laws *after they have been enacted and published*. And thus hath our bill of *facts* introduced a form of government very different from that designated in our bill of *rights* and original constitution,

HAVING shewn, to satisfaction I hope, that *common Sense* hath entirely mistaken the present constitution of Pennsylvania, it follows, that all
his

* The members of assembly, who at this time combined to form a majority in the house, used to meet in the evening at the Indian Queen, and there debate on questions which were to be agitated next day in the house. After debate, the question was put to vote, and the then minority were to vote next day in assembly, not according to their own judgments, but according to this previous determination. Such was the compact between them. See Page 86.

his arguments, founded on what our system of government *was*, instead of what *it is*, must fall to the ground. Amongst these, the first in rank is a subtile distinction between an *act* and a *law*. The design of which is to shew that there are not two sorts of justice in nature. That the same justice which binds individuals in a bargain, should bind the public in contracts. That the assembly, as the representative body of the people, have a right to make contracts with individuals, and that the party or parties contracted with, have an interest in the bargain, which they cannot justly be deprived of by a mere arbitrary change of opinion in the grantor. Because, such a contract is an *act*, and not a *law*, subject to repeal at pleasure. And so applying this doctrine to the case of the bank, he infers that the assembly had no right to deprive that corporation of its character.

BUT the fallacy of this reasoning will appear, by considering the facts and principles just stated; I mean the separation of the *will* from the *power*, in the sovereignty of Pennsylvania.

SUPPOSE a remonstrance to be made to the house of assembly, representing, in strong and plausible terms, the injustice in thus depriving the
bank

bank of its charter, without any legal conviction of its offence, or forfeiture on the part of that institution; the natural answer would be, “the business of this house is determined by a majority of voices; *that* majority is secured by the lower house, and influenced and directed by the legislative council. All the power we have is to enact laws, but what those laws shall be, depends upon those wise men who are in possession of the sovereignty of *will*. If any thing should be wrong, we are not responsible, being nothing more than *legal machines*. Go to those who direct our proceedings, and perhaps they may give you satisfaction.”

SHOULD application then be made to the lower house, and legislative council, they would say, “We have not the power to make laws, or to repeal them; we can neither give charters, nor take them away; the seals of the commonwealth are not in our possession; the house of assembly is alone competent to your purpose.”

AND herein consists the excellency of our government, that let things go as they will, there is nobody to blame.

THE

THE distinction between an *act* and a *law* made by *Common Sense* has no real foundation ; because he places what he calls an *act* of assembly upon the footing of a grant or contract not revocable at pleasure. But the binding force of all contracts depends upon a concurrence of the *will* and the *act*. And, therefore, a grant, bond, or bargain, executed under compulsions, restraint, or undue influence, is of no validity. Now, the *will* being severed from the *power*, in our system of legislation, it is impossible that acts of government should be no more than contracts. All acts of assembly are in fact *laws*, and as such, liable to be revised, amended, or totally repealed, let *Common Sense* say what he will.

IN the case of a grant or charter under specified conditions, there can be no doubt, but that the grantees are strictly bound by the terms mentioned ; but, it would be beneath the dignity of government, that it should be bound by any conditions whatever : *sovereign power* scorns restraint.

I well recollect, that, in an argument held before a late house of assembly, respecting the bank, the advocate for those who wished to overturn that institution, proceeded on the grounds and principles

I have

I have above stated. Much was urged in favour of the *power* of the house. The same *power*, he said, that creates, can annihilate : it would be absurd to say, that the legislature can *do*, but cannot *undo* ; and so on. But, not a word of the justice or injustice, the morality, or immorality, of the transaction ; for these concern the *will* and not the *power*, and were points on which the orator knew the house was not responsible, for the reasons I have given above. I remember also, that I asked a certain great lawyer *, at that time, whether he thought that house could repeal the law for emancipating negroes, and so make them slaves again ? He answered, that it had a legal power so to do.

SINCE then all acts of the legislature are laws, and as such may be altered or repealed at pleasure, to what purpose has this author taken so much pains ? Can a pamphlet invalidate a law of the land ? Will our assembly-men be ruled by the dictates of *Common Sense* ? Will they suffer the sovereignty of the state to be bound in shackles ? God forbid, that they should so far forget themselves their friends, and adherents.

LET

* The Ch—— J——.

LET us now take a short view of the present situation of the bank. A learned and enlightened committee of the house of assembly, *after a fair and impartial enquiry*, have found and reported—“That the bank, as at present established, is in every view incompatible with the public safety”—and a law founded on this report, hath been duly enacted, taking from that institution the charter which the imprudence of a former assembly had *granted and confirmed to it*. To what purpose then, I again ask, has *Common Sense* taken so much pains? This corporation, so far as it depends for existence on the charter in question, exists no more. This cannot be denied. Does this author expect that our present assembly should work miracles, and raise the dead? He cries out against the illegality of the proceedings that disfranchised the bank; what good can this do? After a criminal has been executed, what purpose can it answer to to discover insufficiencies in the court that convicted him, or irregularities in his trial? Will these discoveries bring the man to life, and give him the chance of a new and fairer trial? Surely not.

A corporation can have but *one* life, viz. a legal or political life; but an individual may have *two* lives, and may exist in one, though deprived of the other—that is, an individual may be alive and in health

health in *fact*, and at the same time absolutely dead in *law*. An instance of this happened some time since in the county of York. At a court of common pleas there, an ingenious lawyer contrived to have a report brought into court, that the plaintiff, in a certain action then depending, had suddenly died. This report was circulated with such probable circumstances that nobody doubted but that the poor man was dead. The action of course abated by the death of the plaintiff, and it was so entered upon the docket. At the next court the plaintiff appeared in *propria persona*, and complained loudly of the injury that had been done him by this false report: but the ingenious lawyer aforesaid, rose up and assured the court that the man was dead, notwithstanding his impertinent intrusion there: and for the truth of this, he appealed to the entry on the docket; hoping that the court would not allow any testimony to be given in contradiction to a record, which, he observed, is the highest standard of truth known in law.

Now, although an individual may enjoy a double or two-fold life—as is clear from this man's being capable of a double death, for the plaintiff certainly died over again—yet corporations having no real, but only a political existence, can die but once. Well! then, the annulling the charter of

the bank, having deprived that institution of its political life, so far at least as it depended thereupon,* it necessarily follows that this bank is defunct, demised, deceased, and departed. And there is but one way left, that I know of, in which it can make its appearance amongst us; and that is, by the walking of its discontented ghost.

SOME have thought that the bank may still be considered as politically existing, by virtue of the charter it holds under the Congress of the United States: but as this is a very nice question, and replete with law learning, I shall reserve it for future discussion in a chapter by itself. It only remains now to shew, that the bank has justly deserved the fate it has found, by enumerating some of the manifold crimes and misdemeanors it has committed, and the horrible dangers and evils to the state with which that institution was pregnant.

I cannot do this better than by following the steps of that enlightened committee, who may be said to have been the jury which passed between the commonwealth and the bank on its life and death, under the sacred sanction of an oath of of-

VOL. II.

Q

fice.

* The bank had a charter from Congress, as well as from the state of Pennsylvania.

fice. They have found facts, which, after verdict, ought not to be disputed; that is to say—

* THAT the bank, as established, is incompatible with the public safety. That, in the present state of trade, it had a direct tendency to banish specie from the country, and thereby accumulate it in the hands of the stock-holders. That this accumulation of enormous wealth in the hands of those

* “THE committee, to whom were referred the petitions concerning the bank, established at Philadelphia, and who were instructed to enquire, whether the said bank be compatible with the public safety, and that equality which ought ever to prevail between the individuals of a republic, beg leave to report: that it is the opinion of this committee, that the said bank, as at present established, is in every view incompatible with the public safety. That in the present state of our trade, the said bank has a direct tendency to banish a great part of the specie from the country, so as to produce a scarcity of money, and to collect into the hands of the stockholders of the said bank, almost the whole of the money which remains amongst us. That, the accumulation of enormous wealth in the hands of a society who claim perpetual duration, will necessarily produce a degree of influence and power which cannot be entrusted in the hands of any set of men, whatsoever, without endangering the public safety. That, the said bank, in its corporate capacity, is empowered to hold estates to the amount of ten millions of dollars; and, by the tenor of the present charter is to exist for ever, without being obliged to yield any emolument to the government, or to be at all dependant upon it. That, the great profits of the bank, which will daily encrease as money grows scarcer, and which already far exceeds

“ the

those very citizens who are instrumental in banishing wealth from the country, will necessarily produce a degree of influence and power which cannot be trusted in the hands of a set of men, not attached to the party whose interests the committee wish to promote; without endangering the very existence of that party. That government had not received, nor was likely to receive, any advantage from this institution; because it could only

Q. 2

borrow

“the profit of European banks, have tempted foreigners to vest
 “their money in this bank, and thus to draw from us large sums
 “for interest. That foreigners will doubtless be more and more
 “induced to become stock-holders, until the time may arrive,
 “when this enormous engine of power may become subject to foreign influence: this country may be agitated with the politics of
 “European courts, and the good people of America reduced once
 “more into a state of subordination and dependence upon some
 “one or other of the European powers. That, at best, if it were
 “even confined to the hands of Americans, it would be totally
 “destructive of that equality which ought to prevail in a republic.
 “We have nothing in our free and equal government capable of
 “balancing the influence which the bank must create; and we
 “see nothing, which in the course of a few years, can prevent the directors of the bank from governing Pennsylvania. Already we
 “have felt its influence indirectly interfering in the measures of
 “the legislature. Already the house of assembly, the representatives of the people, have been threatened that the credit of our paper currency will be blasted by the bank. And if this growing
 “evil continues, we fear the time is not very distant when the bank
 “will be able to dictate to the legislature what laws to pass, and what
 “to forbear.”

borrow from the bank for public use, and not *seize* upon the stock whenever exigence, convenience, or the views of those in power, require it. That, the profits of the bank being in money, must daily encrease, as money grows scarcer; and has already so far exceeded the profits of European banks, as to tempt foreigners to encrease this scarcity of money, by vesting large sums in the bank, for which they only draw interest. That, foreigner after foreigner, may be thus tempted by our encreasing scarcity of money, until all the specie of Europe shall be accumulated in the bank; and then princes and states will hold annual meetings for the election of a president and directors to manage this enormous engine of power: and so our country will be again agitated by European politics, and the good people of America, by possessing the wealth of foreign nations, will become dependant upon them. That even supposing no interference of foreigners, yet our own citizens being stockholders might in time, by banishing all the specie from the country, become so enormously rich and powerful as to seize on the government of the state, subvert the constitution, and give legislative authority to the president and directors of the bank.

AFTER this black catalogue of offences and possible

possible evils, who will say that the bank hath not justly merited political death? But besides these pernicious effects, these fears and apprehensions, other evil designs and abominable practices have been suggested against this institution—such as, that Mr. F——, once in every week, rises at midnight, and with a dark lanthorn in his hand, enters the vaults of the bank through the subterraneous passage leading from the cellars of his own house into those vaults; that he there meets *Belzebub and Blackbeard the pirate*; and that these three, sitting upon boxes of money, hold consultations, and conspire against the peace and safety of the commonwealth. That one of the schemes of this infernal triumvirate is to bribe the *Algerines* with the money of the bank to seize upon all American vessels, except those in which R—— M——, esq. is interested: and another is to change our republican form of government to a monarchy. In which case R—— M—— is to be king of Pennsylvania; T—— W——, esq. viceroy; Mr. F——, chief justice, and all the clerks of the bank justices of the peace.

BUT as the committee, notwithstanding *the strict enquiry* they have made, have not found or reported these facts, I am inclined to think they may not be true. It would not be amiss, however, that the
assembly

assembly should order Mr. F——'s cellars to be examined, and if the subterraneous passage should be found, it will give probability to the suggestion; and then further enquiries might lead to a discovery of the whole plot.

A
SPECIMEN
OF A
MODERN LAW-SUIT.

OR

THE CONDUCT OF A COURT OF JUSTICE DISPLAYED;

INTENDED AS A MODEL FOR A NEW BOOK OF MODERN
REPORTS: IN THE STYLE OF THE YEAR 1786.

IN SPECULO.

THE P R E F A C E.

P R E F A C E

IN a government professedly *free*, that is a government of laws, binding on the whole by the consent of legal representatives of the whole, it seems necessary that not only the laws themselves, but what is called the practice of the law, should be better understood by the people at large.

It is in vain for a person not versed in the mysteries of the profession to look into books of reports for the history of a trial at law. He may as well look for religion in the works of *Jacob Behmen*, or the practice of physic in *Aristotle*. He will find the subject matter concealed in technical jargon, and a cloud of artificial terms, to many of which professors themselves have not yet assigned a determinate meaning.

WHEN a law first issues from the hands of the legislature it is generally sufficiently intelligible. It
is

is like metal from the melting furnace. But when it has undergone the operations of a judicial forge, it assumes appearances very different from its first form. For law is the most malleable thing in nature, and what with the heat of contest and the hammers of legal forms, it soon becomes, in judicial construction, no more like the original than a bar of iron is like the pig of metal from which it has been forged.

I think it would be of considerable use, that this process should be delineated at large; that the people may have an opportunity of knowing whether their own acts are executed according to their spirit and intent, and whether, what is called the common law, is fairly construed and applied in their courts of justice, or not.

I know of no better way to effect this, than by recommending that all trials and law proceedings should be published in detail, with as sparing a use of mere professional language as possible. The case in contest should first be stated in as few and plain words as may be; and then should follow the whole proceedings of the court; the arguments of counsel; the interferences and opinions of the judges, &c. all in *dramatic* form.

To

To elucidate my scheme, I will attempt the report of a case in the manner I think it ought to be done.

It is scarcely necessary to premise that the case I shall state, the *dramatis personæ*, and other circumstances, are altogether fictitious, and designed only as a mode for learned reporters in time to come.

SPECIMEN

SPECIMEN OF A MODERN LAW-SUIT.

THE CASE STATED.

LAWRENCE LANDLORD was seized in fee of 300 acres of land: that is, it was his own estate. He leased 100 acres thereof, together with a farm-house, barn, orchard, &c. to his neighbour *Timothy Tenant*, for a term of years, reserving a certain rent, and covenanting for several specific articles and privileges: amongst these was the following.

“AND it is hereby further agreed by and
 “between the said parties, that the said *Timothy*
 “*Tenant* shall at all times, during the term of
 “this present lease, preserve, keep, and set apart
 “for the use, benefit, and behoof, of the said
 “*Lawrence Landlord*, the *apple-skins or parings*
 “of all the apples used in the said *Timothy*
 “*Tenant's*

“ *Tenant’s family ; to the intent and purpose that*
 “ *the said Lawrence Landlord may therewith feed,*
 “ *fatten, and raise up his pig or pigs : Provided*
 “ *always, that the said Lawrence Landlord, by*
 “ *himself or his servants, and at his own expence,*
 “ *cost and trouble, shall send for, fetch, carry, or*
 “ *cause to be carried, away the apple-skins or par-*
 “ *ings aforesaid, for the purposes aforesaid.*”

AND so it was, that under a construction of this clause, and by advice of council learned in the law, *Lawrence Landlord* had sent for and taken away the APPLES growing in the orchard of *Timothy Tenant*. Whereupon the said *Timothy* brought his action of trespass, and sued for damages for the wrong and injury done.

THIS cause had been instituted in the common-pleas, and gone through the ceremonials of many terms. At length, all objections being obviated, and all causes of delay removed, the defendant finding that the trial must certainly come on, removed the cause, by *habeas corpus*, to a superior court. After again waiting all reasonable and unreasonable adjournments, objections and delays, the argument came on in the superior court, on Thursday the day of A. D. 1786.

T R E S E N T,

The judges in their robes, viz.

The honourable chief justice I,

Judge - - - YOU,

Judge - - - HIM,

with the officers of the court, counsellors of the bar, jurymen, &c. and a great number of idle citizens, idle apprentices, and blackguard boys.

(The crier opens the court.)

Ch. Jus. *(Speaking to one of his brethren.)* Have you seen the papers of to-day?

Jud. you. I just cast my eyes over them; but had not time to read any thing regularly through.

Ch. Jus. Full of libels and abuse! The printers have become so licentious, that it is high time to curb and restrain the press.

Jud. HIM. High time indeed. I wish the assembly would pass a short act, empowering the judges of the supreme court to superintend the press, and license publications. Government will
never

never be respectable whilst the presses are free; by free, I mean so licentious!

Coun. X. I wait the court's leisure—

Ch. Jus. Well! what's the business?

Coun. X. If your honours please—the cause marked for to-day, is *Timothy Tenant* versus *Lawrence Landlord*; and I would move the court that the trial should now come on.

Ch. Jus. Let the jury be called—

Coun. X. If the court pleases—the jury are empannelled, and we are ready to proceed.

C. Jus. Well! what is the title of this cause?

Coun. X. Timothy Tenant versus Lawrence Landlord—action on the case—

Ch. Jus. HAND me a sheet or two of paper—Well! go on——

Coun. X. May it please your honours! and you, gentlemen of the jury!—In this cause I am counsel for the plaintiff. It is an action of trespass, and the cause of action is set forth in the declaration, which

which states; that on the 10th day of October, in the year 1783, Lawrence Landlord, the defendant, did with his servants and accomplices, enter the demesne of the plaintiff, and with force and arms, and so forth, then and there did take and carry away one bushel of apples, the property of the plaintiff, and of the growth and produce of a certain orchard, which then was, and still is, in the rightful tenure, possession, and occupancy, of the plaintiff; by virtue of a certain lease or contract, the term of which was not then, nor is yet, expired.

If the court pleases, I shall proceed to establish the facts, by exhibiting a copy or counterpart of the lease, and producing witnesses to prove the wrong and injury done.

Coun. Z. May it please your honours! we will save the gentleman the trouble, and the court their time and attention, by demurring to the testimony offered. We admit the facts, and shall rest our defence upon the legal construction of the clause in the lease, which reserves to Lawrence Landlord all the *apple-skins* or *parings*, and so forth; and shall shew most clearly, that both by the intendment of the parties, and the very words of the contract, all apples growing on the premises were reserved to the use of the lessor.

Coun.

Coun. X. Here then, if the court pleases, we join issue. It is not pretended that we have in any instance violated the terms of our lease, or incurred any forfeiture. The clause in contest is, in these words: "And it is hereby further agreed by and between the said parties, that the said Timothy Tenant shall at all times, during the term of this present lease, preserve, keep, and set apart, for the use, benefit and behoof the said Lawrence Landlord, the apple-skins, or parings, of all the apples used in his, the said Timothy Tenant's family, to the intent and purpose, that the said Lawrence Landlord may therewith feed, fatten, and raise up his pig or pigs. Provided always," and so forth.

Now, it lies with the defendant to shew that there is no difference between the apple skins or parings, and the *apples* themselves.

THE facts being admitted, no further opening of the cause is necessary. The court and jury will perceive the point on which it turns, viz. the construction and legal operation of the clause just read. I shall wait for the arguments and authorities that may be produced on the other side, only observing for the present, that the injury we have sustained hath been very grievous; the peace of our family

mily has been disturbed by strangers entering with a usurped authority, and snatching, as it were, the victuals from our mouth, and from the mouths of our children. And further, that if this right should be established in the lessor, we shall have lost not only the dumplings of that day, but all future dumplings, apple-pies and apple-puddings, during the term of our lease.

Coun. Z. May it please your honours! and you, gentlemen of the jury! In this cause wherein Timothy Tenant is plaintiff, and Lawrence Landlord defendant; I am council for the defendant. As there is no dispute about the facts, much time will be spared, and the argument brought within a narrow compass.

WE are charged, gentlemen of the jury, with having, with force and arms, and so forth, taken certain apples from an orchard in the tenure of the plaintiff. Setting aside the literal meaning of those formidable words—*with force and arms*, which in this *pul-lace*, are mere forms of law, and therefore have no meaning at all. I say, setting aside these formidable words, we acknowledge and confess that we took certain apples from an orchard in the tenure of Timothy Tenant the plaintiff; and we contend, and we hope we shall be able to de-

monstrate to this honourable court, by arguments most *cul-lear* and *pul-lain*, drawn from the *pe-urest* fountains of law, and supported by most respectable authorities, that we have committed no wrong whatever ; no *bur-reach* of our contract ; and that Timothy Tenant hath no rightful cause of *compul-laint* against us. And why? Because we say, when we assigned this estate to the lessee, we *expur-resly* reserved the *fur-ruit* of this orchard to our own use, or rather to the use of our pig or pigs. And how will this appear? most *cul-learly* by attending to the clause in the lease, which is the object of our *pur-resent* discussion.

THIS *cul-laufe*, gentlemen of the jury, is in these words : “ And it hereby further agreed by and between the said parties,” &c. &c. &c.

Now, may it please the court, here is a full and *com-pul-lete* agreement, covenant or contract, between the lessor and lessee.

AN *agur-reement*, gentlemen of the jury, is defined in law, *agregatio mentium de re aliqua facta vel facienda* : that is, a concurrence of will in the parties, respecting something done or to be done ; and a contract or covenant is an *agur-reement* substantiated and solemnized in full form of law.

Further,

Further, may it please the court, obligations arising from contracts are divided and distinguished, *ex re*, from a thing done; *ex verbis*, from words; *ex literis*, from writing; and *ex consensu*, from consent.

Now I shall *pur-rove* to the satisfaction of the court and jury, that the present contract is full and *com-pul-lete* in all these essential circumstances; that is to say; *ex re*, *ex verbis*, *ex literis*, and *ex-consensu*. And, if so, we apprehend it must follow as *cul-learly* as a *pur-roblem* in Euclid, that the lessor had a right to take the *apples* of the lessee, and give them to his pigs. May it please the court, the *res*, *rem*, or *re*, in this contract, is the right reserved by the lessor to enter the *pur-remises* of the lessee, and take away all the apple-skins or parings of apples, and so forth; the very words of the lease. Now, if the court pleases, how is this *res*, *rem*, or *re*, confirmed and established? Why, *ex verbis* from the words of the clause, and *ex literis* from the letters which compose those words; and the *ex consensu* is *cul-lear* beyond the possibility of a doubt, by the seals and signatures of the parties, solemnly executed in the *pur-resence* of several subscribing witnesses.

I now come, if the court pleases, to prove by

R 2

solid

solid argument, supported by a *cul-toud* of authorities most respectable in law, that by the word apple-skins and parings, *the apples* themselves will pass by *con-ſtur-ruſtion* of law and right reaſon.

Now, if your honours pleaſe, it is moſt *pul-lain* and manifeſt, that the apple ſkin cannot poſſibly be transferred, given or taken away, without the apple itſelf paſſing therewith. And why? For this *pul-lain*, and *cul-lear* reaſon, becauſe, if the apple-ſkin or paring be ſevered or ſeparated from the apple, it is no longer an *apple-ſkin*, but becomes, in its ſevered ſtate, only the *ſkin of an apple*; and ſo faith the law. Coke's Reports, Part IInd page 225, "Severance of corn, is the cutting
"and carrying it off from the ground; and ſome-
"times, the ſetting out the tithe from the reſt of
"the corn, is called *ſeverance*:" moſt *cul-learly* then, the cutting the ſkin from the apple, is a *ſeverance*; and ſuch a ſeverance as the law notices and recognizes. Gentlemen of the jury! I hope I am underſtood; this is a very important point. I ſay, there is a material difference between an apple ſkin and the ſkin of an apple. And, why? Becauſe a reſervation of the apple-ſkin is, by *conſtur-ruſtion* of law, a reſervation of the apple itſelf. And, why? For this *pul-lain* and manifeſt reaſon; becauſe, when the outward bounds, lines,

or

or limits; or, as the law expresses it, the *pars continens* of any matter or thing is *discur-ripi-tively* conveyed, assigned, or reserved, the internal parts of that matter or thing must also be conveyed, assigned, or reserved, otherwise there would be an absolute *severance*, which the law abhors; for, it is an adjudged case, that tenants in common of a horse cannot sever their property.

BUT, may it please your honours! I hasten to produce authorities directly in point: and first, if the court pleases, I will take up O'Farrell's Reports, page 106.

“ MISTAKE *versus* BLUNDER.

“ THIS was an action on the statute of *Patrick 4th* chap. 16. called *the statute of nails*,
 “ which prohibits all subjects within the realm
 “ from cutting or paring their nails on a *Friday*:
 “ under the penalty of twenty shillings for every
 “ offence, to be recovered by the overseers of the
 “ poor, for the use of the poor of the county in
 “ which the offence should be committed. *Mis-*
 “ *take* and others were overseers of the poor for
 “ the county of *Antrim*, and brought their action
 “ under the statute against the defendant. And
 “ it was in proof that the defendant had pared
 “ his thumb nails and his great-toe nails on *Friday*,

“ 10

“ to wit : on Friday, the—— day of ——, at
 “ twelve o’clock in the night of the same day.

“ COUNCIL for the defendant demurred to the
 “ facts ; observing, that as this was a penal law,
 “ it ought to be strictly construed. And there-
 “ upon, took three points of defence, viz. *First*,
 “ it was urged, that *night* is not *day*, and the sta-
 “ tute expressly says *Fri-day* and not *Fri-night* ;
 “ and the proof is, that the cutting was at night.
 “ *Secondly*, it was contended, that twelve o’clock
 “ on Friday night is in fact the beginning of Sa-
 “ turday morning, and therefore not within the
 “ statute. And, *thirdly*, that the words of the sta-
 “ tute are UNGUES DIGITORUM—Anglici—the
 “ *nails of the FINGERS*, and the testimony only ref-
 “ pects *thumbs and great toes*.

“ THE jury gave in a special verdict : whereup-
 “ on, after long advisement, the judges were una-
 “ nimously of opinion, on the first point, that in
 “ construction of law, day is night and night is
 “ day ; because a day consists of 24 hours, and
 “ the law will not allow of fractions of a day *de*
 “ *minimi non curate lex*—in English, the law don’t
 “ stand upon trifles. On the second point, that
 “ 12 o’clock at night, being the precise line of di-
 “ vision between Friday night and Saturday morn-
 “ ing,

“ing, is a portion or point of time which may be
 “considered as belonging to both, or to either, or
 “to neither, at the discretion of the court. And,
 “*thirdly*, that in construction of law, fingers are
 “thumbs and thumbs are fingers, and thumbs and
 “fingers are great toes and little toes, and great
 “toes and little toes are thumbs and fingers ; and
 “so judgment for the plaintiff.”

Now, may it please the court, from this authority it is *most cul-lear*, that apple-skins are apples, and that apples are apple-skins. I am confident in saying that the smallest particle of doubt cannot remain in the *unpur-rejudiced* mind. But to make the matter still more *cul-lear and pul-lain*, as if it were possible to demonstrate *demonstration*, here is an act of assembly—an act of our own government, which brings the matter home to the very door of the *pur-resent* case. Acts of assembly, printed volume, page 314. This, if the court pleases, is an act for laying an excise on cyder, and the words are “all apples or apple-skins.”—Now the article *or* is in this place neither conjunctive nor disjunctive, but *pe-urly* explanatory : as if the law had said, all apples—or, which is the same thing, all apple-skins.

HERE, Gentlemen of the jury, the legislature hath declared itself on the very point before the
 court.

court. And it is *cul-lear* as the sun at noon day when not a *cul-loud* is to be seen in the sky, that apple-skins or parings and the apples themselves are, in *constur-ruetion* of law, one and the same thing. And it follows, as undeniably as a *pur-oblem* in Euclid, that when the present lessor reserved the apple-skins or parings, he, at one and the same time, reserved the apples also for his use, or rather, as the contract *expur-resses* it, for the use of his pig or pigs.

FOR what would be the consequence, may it please the court—what would be the consequence of any other construction? If the lessee should eat the apples himself, would this fatten the lessor's pigs? Surely not—Would the dumplings and apple-pyes of the *pul-laintiff's* children fatten the defendant's pigs? Surely not—Would the cyder made by Timothy Tenant raise up the pigs of Lawrence Landlord? Surely not—Does the clause in the lease say that the tenant shall have all the apples, and leave only the skins of apples for the landlord? It says no such thing.

WITH the leave of the court, I will put a case—Suppose a miller hath a sack of meal: I ask him what he will take for that sack, and we agree
for

for twenty shillings. After the agreement, and after I have paid the stipulated price, the *currafty* miller may as well empty out the meal and give me the void sack for my money, as that the *pul-laintiff*, in the *pur-resent* cause, should be entitled by this honourable court to eat the apples himself, and give only the skins of apples to the defendant.

GENTLMEN of the jury! this is a cause of *gurreat* magnitude, no less than determining by solemn adjudication the distinction between an apple-skin and the skin of an apple. But I have the fullest confidence that this enlightened court and jury, will see as *cul-lear* as the sun when not a single *cul-loud* intervenes, that the skin of an apple is or may be the skin of any apple; but an apple-skin is the skin of a known and determinate apple; annexed to and circumscribing that apple; being in truth the *pars continens* thereof. As if one should take an apple in his hand, and say—*this*, pointing to the part, (having cut the apple in half) is the apple seed—*this*, (still pointing to the respective parts,) is the apple-core—*this*, is the apple pulp—and *this*, (still pointing,) is the apple skin—the *pars continens* of the whole; and so, altogether, viz. seed, core, pulp and skin, make up

up a full and *com-pul-lete* apple—or, as the law would exprefs it, an apple-skin *pars pro toto*—for the law delighteth in brevity.

MAY it please the court, I come now, in as few words as poffible, to answer an argument which may be brought on the other fide, founded on thefe words in the claufe under confideration : “ Of all “ the apples *ufed* in his the faid Timothy Tenant’s “ family.” And here, moft *pur-robably*, the gentleman of council for the *pul-laintiff*, will obferve with his ufual ingenuity, that thefe words ftrongly indicate a feverance to be intended. Otherwife, as he will fay, how fhall the apples be ufed in the family of the leffee, if, under the term *apple-skins*, the whole, that is, both fkins and apples are referred to the leffor ?

SUCH an argument might have weight with a lefs enlightened jury than that I have the honour now to addrefs. But let us *bur-ring* this feeming reason to the test of law, that unerring rule of right, that apex, fummit, and perfection of human reason, and we fhall foon fee the mift of error vanifh, and the *cul-lear* fun of truth *bur-reak* forth with unrivalled *ur-radiance*.

THE words are : “ of all the apples *ufed* in his “ the

“ (the *pul-laintiff*'s) family.” We will now consider, if the court pleases, the doctrine of *USES*, as laid down in the books. And here it is to be observed, that the *habendum* of every deed consists of two limitations; the one of estate or property which the feoffee, or party possessive, shall receive by the deed; and the other the limitation of the *use* or *uses*: that is, for whose use he shall hold the property: by which means the possession is in one man, and the use or *pur-rofit* in another. And for this, I turn to *Gilbert's* law of uses, page 175.

“ An use, at common law, was an equitable right
 “ which he reserved, who conveyed a legal estate
 “ to another; upon trust and confidence, that the
 “ person to whom he so conveyed it, would nevertheless
 “ suffer him to take the rents and profits
 “ of the land.”

HERE then it is *pul-lain* to demonstration, that the lessor, the defendant in the *pur-resent* cause, hath reserved the *pur-rofits* or *fur-ruits* of the land although he has leased the soil itself to the *pul-laintiff*. And how has he done this? Not by reserving the apples *gur-rowing* on the premises. This would have been equivocal and uncertain, as the vulgar tongue for the most part is. And why? Because it is not certain and determinate what an
 apple

apple is—There are *fur-ruits*, which in common parlance are called *oak-apples*; others *balsam apples*; others *crab-apples*, and so forth: and even potatoes are denominated *les pommes de terre*; that is, *earth apples*; or, as some translate it, *the apples of the earth*. How, I say, has the lessor made his reservation? Not by reserving the skins of apples; for then *cestuy que use*, the lessor's pigs would have nothing but the offals, the excrementitious parts of the *fur-ruit* to fatten on. But he has, with *tur-rue* legal precision, reserved the apple-skins which include the apples themselves; as the metes and boundaries of a tract of land *incul-lude* and convey the land itself, with all its buildings, *im-pur-rovements* and appurtenances. And why? Because by a maxim of law, *cujus est solum ejus est usque ad cælum*.

BUT to return to the doctrine of uses.—*Gilbert's* law of uses page 26: “Though at common law “*cestuy que use* had no power over the land, yet “he might alien the use; because every one might “dispose of the rights that are in him.”

HERE then, if your honours please! we see, that the lessor, the *pur-resent* defendant, hath a power, not only to use the apples himself, but
might

might, if he so thought fit, sell or dispose of them to another. *A fortiori* shall he give them to his own pigs. And why? Because, saith this *bur-right* luminary of law, *Baron Gilbert*, "Every man may dispose of the right that is in him."

MAY it please the court, I could go on, open up, and display the whole doctrine of trusts and uses, as laid down in the books; and, at every step, it would appear *cul-lear*, *cul-learner*, and still more *cul-lear*, that the words of the contract, "used in his family," are, by intendment of law, to be considered as meaning no more than a naked possession in trust for *cestuy que use* the defendant's pigs.

BUT I shall not take up the time of this honourable court, by heaping proof upon proof, or in attempts to elucidate the *ur-radiance* of the sun.

I confidently submit the defendant's cause to the court and jury: having, as I hope, quenched every scintilla of doubt in the *unpur-rejudiced* mind.

Ch. Jus. Let the court be adjourned to three o'clock this afternoon; and I expect that the jury

ry, and the gentlemen of the bar, will be punctual in their attendance. We shall wait for no man in this court. I am determined to establish punctuality wherever I am concerned. I insist upon every man's attendance at three o'clock precisely. We shall not waste our precious time in waiting for other people's conveniences.

(The court rises.)

(Four o'clock.)

Crier. Yonder comes the chief justice.

The judges take their seats

Ch. Jus. Let the courts of oyer and terminer, and the supreme court be opened.

(The crier opens the court.)

Coun. X. May it please your honours! and you gentlemen of the jury!

I come now to close the pleadings in this cause, by replying to the arguments and authorities advanced in behalf of the defendant.

BUT, before I enter on the subject, I beg leave to clear the way *now* by denying one of the gentleman's

tleman's authorities to be genuine. I did not choose to interrupt him at the time ; but he may obviate the objection now if he can ; the authority I allude to was cited from the printed volume of our acts of assembly, page 314. in these words, " all apple skins or apples." Now, I say that this is a false and erroneous publication of the law, and of no authority. I have here, if the court pleases, a certified copy of this law taken from the original record in the roll's office. By which it will appear that the words, as enacted, have a very different import from what they have, or may be supposed to have, as published is this spurious edition of the laws of this commonwealth.

Ch. Jus. I will not suffer the authority of that book to be questioned whilst I preside in this court —Let me not hear a word more on this head.

Crier. Make room there for the grand jury !
clear the way for the jury !

Cl. Gentlemen, have you any bills or presentments to make ?

(The Foreman presents a paper.)

Ch. Jus. What ! the bill returned *ignoramus* !

—Well! And pray gentlemen, what can be your reason for not finding this bill?

Foreman. Because, after a careful examination of witnesses, for and against the party accused, we did not think the charge sufficiently supported.

Ch. Jus. And what business had you with any witnesses but those furnished by the court? How dare you to tamper with witnesses unknown to me or the attorney general?

Foreman. We have solemnly sworn to make diligent enquiry, and true presentment make; and we apprehend that we should not have performed our duty if we rejected any legal testimony that offered respecting the matter we had in charge—However, we acted under the solemnity of an oath, and have discharged our consciences.

Ch. Jus. Sir! I will not be insulted! Tell me of your oath and your conscience! You knew it was my desire that you should find this bill, and that ought to have satisfied you—Conscience, indeed! The court is the keeper of a grand jury's conscience; I am sure I sent you a sufficient testimony to satisfy your conscience; all we want of you is to give legal form to our proceedings—it would

would be a fine court indeed, if a parcel of ignorant merchants should have it in their power to controul our proceedings in the administration of justice—But you have other reasons than conscience for this conduct. How dare you receive other testimony than such as had been qualified and furnished by the court? But this shews your extreme ignorance of law—of even the first principles of law.

Foreman. May it please your honour! We did not come here to be abused; we have been called upon to perform a duty neither agreeable in itself nor profitable to us; we have been forced from our private business (pressing enough at this time on most of us) to attend this court. Our duty has been designated to us in a very solemn oath, the terms of which are, as we think, too plain to be misunderstood, even by the most unlearned; and we are humbly of opinion, that—

Ch. Jus. Hold your tongue, sir—I order you to hold your tongue—What shall we be braved and insulted in the execution of our office?—I command you to hold your tongue.

Jud. HIM. Gentlemen of the grand jury, you seem to have entirely mistaken the business. You

have got a wrong notion of your own office and character, I mean as the law considers you ; whatever your individual knowledge or merits may be, as a grand jury, the law defines you to be a number of unlearned men, got together to form a part of the *legal machinery* of the court. As to your oath of office ; this is also nothing more than a law-form, and like other law forms, hath, or may have, a very different import from what the same words would have in common acceptation ; the true intent and meaning of this oath has been explained to you by the chief justice, in his excellent charge, previous to your entering on the duties of your office. You were then told, that when this oath enjoins you diligently to enquire, and true presentment make, it means nothing more, in the law language, than that you are to consider, from the testimony furnished by the court, whether there may not be probable cause of suspicion, that the accused party is guilty of the crime laid to his charge ; and this ought to have satisfied you ; for as I before observed, *a grand jury is only a legal machine, manageable at the discretion of the court.*

Foreman. If the court pleases ! We apprehend—

Ch.

Ch. Jus. Not a word more, sir, I will not hear a word, sir.

GENTLEMEN of the grand jury, the court having no further occasion for your services, you are discharged.

(The grand jury retire in great discontent.)

Coun. X. I pray your honour's attention for a few minutes! I was going to observe, that in my opinion—

Ch. Jus. I will not hear a word now on this subject—the case is too plain: I shall spend no more time upon it.

GENTLEMEN of the jury:

You have heard this cause, and must perceive that the point on which it turns, is the legal construction of a clause in the lease; which, being purely a matter of law, comes not within the sphere of your duty, or abilities to determine: you will therefore retire and bring in a special verdict.

ADJOURN the court to nine o'clock to-morrow morning, *precisely*, and see that you are all punctual in your attendance.

(*The court rises.*)

(*Friday morning, nine o'clock.*)

Judge YOU, Judge HIM, the jury, officers of the court, &c. At three quarters after eleven, enter his honour the chief justice. The court is opened, the jury called, &c.

THE jury hand in a special verdict, in these words :

“ IN this cause, wherein Timothy Tenant is plaintiff, and Lawrence Landlord defendant ; if, in construction of law, a reservation of *apple-skins* and *parings of apples* is a reservation of the whole fruit or the apples themselves, then we find for the defendant ; but if apple-skins are, in construction of law, nothing more than apple-skins, then we find for the plaintiff—ten pounds damages, with costs of suit.”

Ch. Jus. As this seems to be a cause of considerable expectation, the court will take time to consider, and will give judgment on the day of next ; six months from this time.

(*The court rises.*)

AT the time appointed, the court met, and after
may

many adjournments from day to day, for three weeks ; judgment was at last given as follows :

Ch. Jus. We are now ready to give judgment on the special verdict in the cause, *Timothy Tenant* against *Lawrence Landlord*.

THE legal construction and operation of a clause of reservation in a lease granted by the defendant to the plaintiff, is the sole point on which the determination of this cause must depend. The reserve made, is, “ of the apple-skins or parings of “ all the apples used in his, the said Timothy Tenant’s, family ; to the intent and purpose, that “ the said Lawrence Landlord may therewith feed, “ fatten, and raise up his pig or pigs.”

THE distinction between an apple-skin and the skin of an apple was well supported by the council for the defendant. And the case cited from *O’Farrel’s* reports closely applied. This case of *Mistake versus Blunder* gave rise to many learned comments on the *statute of nails*. Amongst these a very scarce tract hath fallen into my hands, written by the greatest lawyer of his day. He is large on all the points taken in that cause : and on the second, he says, that twelve o’clock on Friday night may be considered as one o’clock on Saturday morning, or as eleven o’clock on Friday night,
at

at the discretion of the court : because, in all cases where a statute fixes a precise and determinate time, one hour each way is supposed to be allowed to the judges, in their decisions thereupon, *to make up for the variations of clocks and watches.*

BUT to the point. This lease or contract, is a deed ; and deeds are to be considered with respect to their *form* and *substance* : as to the first, it is not contended but that this deed is regular in point of *form*. Let us then consider the *substance*. The substance of any deed is the intention of the parties, at the time of executing it. For all the solemnities which the law requires have no other end or tendency but that of substantiating and fixing, in the most lasting and unequivocal terms, the will and intention of the contractors. We will now bring the clause in question to the test of this rule. The words are, “ All apple-skins and parings,” and so forth ; “ To the intent,” and so forth, “ That the lessor should *fatten and raise up his pigs.*” Now it signifies nothing what we are to understand by apple-skins or parings ; what is the essence ? What is the substantial part ? What *ought to have been* the will of the parties in this contract ? Certainly the raising and fattening of pigs was, or ought to have been, the principal object. And, for this reason, because the law looks, with a friendly

friendly eye on the raising of hogs, and making of pork and bacon, for these are amongst the staple commodities of our country. And we find many acts of assembly for the encouragement of the breed of hogs. Such as the act making it penal for any one to alter the mark of a marked, or *unmarked*, hog; and the act laying a duty on all roasted pigs under the age of six months, and enjoining them to be *killed sparingly*——and also one other remarkable act, lately passed, for making hogs, pigs, and swine free of the city, and granting them unmolested egress and regress through our streets, lanes, and alleys. Under this act, a hog may have his *quare impedit* against any street commissioner or citizen who shall obstruct his passage, or molest him in the exercise of his right; yet it hath been holden, that a hog may not, by virtue of this act, enter the houses, parlours, or chambers of the citizens,

Thus we see that the law hath a special respect to the raising and fattening of hogs. And what the law intends to be done, it also intends to be well done, or in the best and most effectual manner. Now, how shall the lessor's pigs be best raised up and fattened? Not by being fed with husks, skins or parings; but by eating of the fruit itself, which contains most of the saccharine or nutritious juices of the tree.

ON

ON these clear principles, the court adjudges in favour of the defendant, with costs; and so let it be entered.

Jud. you. I am sorry to find myself under the necessity of dissenting from my brethren. As I cannot help thinking, after mature and deliberate consideration, that an apple-skin is nothing more than an apple-skin. However, as the majority is against my opinion, the judgment must be entered in favour of the defendant.

Coun. X. It the court pleases! I beg leave to move for a re-hearing of this cause. Not for the sake of delay; but for this reason—We did not foresee the principles upon which the court hath grounded its decision; and therefore have not provided either evidence or argument to the point which has influenced your honours. If we may be indulged with a re-hearing we shall bring full proof that the lessor did not keep any pig or pigs; and so by his own act or neglect hath rendered it impossible for the plaintiff to execute the trust. There being in fact no *cestuy que use* for whom the trust should be executed. It is a maxim in law, that no one shall benefit by his own wrong; much less shall a man suffer for not doing that which his adversary hath put it out of his power to do.

(The

(The judges consult together.)

Ch. Jus. I was of opinion that no re-hearing should be granted—judge YOU thought it ought to be allowed, judge HIM was doubtful, and thereupon,

CURIA VULT ADVISARE.

✿ IN

IN December 1778 the convention of Pennsylvania assembled to consider the constitution or frame of government for the United States, drawn up by the late general convention of the states, and by them recommended to the consideration of the people at large. After three weeks deliberation, the proposed constitution was adopted by the convention of Pennsylvania, by a majority of two thirds of that body. The following allegory contains in substance the principal arguments used in that important debate.

THE NEW ROOF.

THE roof a certain Mansion-house was observed to be in a very bad condition*, and quite insufficient for the purpose of protection from the inclemencies of the weather. This was matter of surprise and speculation, as it was well known that the roof was not more than twelve years old, and therefore its defects could not be ascribed to a natural decay by time.

ALTHOUGH there were many different opinions respecting the causes of this deficiency, yet all agreed that the family could not sleep in comfort or safety under it.

* The old Confederation.

AT last it was determined to employ some skilful architects to survey and examine this defective roof, to make report of its condition, and to point out such alterations and repairs as might be found necessary.

THESE skilful architects accordingly met together; and after a thorough examination of the faulty roof, they found,

1st That the whole fabric was too weak.

2nd That there were indeed *thirteen* rafters; but that these rafters were not connected by any braces or ties, so as to form a union of strength.

3^d That some of these rafters were thick and heavy, and others too slight; and as the whole had been put together whilst the timber was yet green, some had warped outwards, and of course sustained an undue proportion of weight, whilst others, warping inwards, had shrunk from bearing any weight at all.

4th THAT the shingling and lathing had not been secured with iron nails, but only wooden pegs*, which swelling and shrinking by successions of wet and

Paper Currency.

and dry weather, had left the shingles so loose, that many of them had been blown away by the wind; and that before long, the whole would, probably, in like manner be blown away.

5th THAT the cornice was so ill proportioned, and so badly put up, as to be neither an ornament nor of use: and,

6th That the roof was so flat as to admit the most idle servants in the family, their playmates and acquaintance, to trample upon and abuse it*.

HAVING made these observations, these judicious architects were of opinion, that it would be altogether vain and fruitless to attempt any alterations or repairs in a roof so defective in all points, and therefore proposed to have it entirely removed; and that a new roof, of a better construction, should be erected over the mansion-house: and they also prepared a drawing or plan of a new roof, such as they thought most excellent for security, duration, and ornament. In forming this plan, they consulted the most celebrated authors in ancient and modern architecture, and brought into their design the most approved parts, selected from the models before them; and finally endeavoured

to

* Want of dignity in government.

to proportion the whole to the size of the building, and the strength of the walls.

THIS proposal of a new roof, it may well be imagined, became the principal subject of conversation in the family : and the opinions of it were various, according to the judgment, interests, or ignorance of the disputants.

ON a certain day the servants of the family had assembled in the great hall to discuss the important question. Amongst these was JAMES,* the architect, who had been one of the surveyors of the old roof, and had a principal hand in forming the plan of the new one. A great number of tenants had also gathered out of doors, and crowded the windows and avenues to the hall, which were left open for them, that they might hear the arguments for and against the new roof.

Now, there was an old woman, known by the name of *Margery the midwife*, who had got a comfortable apartment in the mansion-house. This woman was of an intriguing spirit, of a restless and inveterate temper, fond of tattle, and a great mischief-maker. In this situation, and with these talents,

lents, she unavoidably acquired an influence in the family ; by the exercise of which, according to her natural propensity, she had long kept the house in confusion, and sown discord and discontent amongst the servants.

MARGERY was, for many reasons, an irreconcilable enemy to the new roof, and the architects who had contrived it. Amongst these, two reasons were very obvious. First : the mantle-piece, on which her cups and platters were placed, was made of a portion of the great cornice ; and she boiled her pot with the shingles that blew off from the defective roof : and, secondly, it so happened that, in the construction of the new roof, her apartment would be considerably lessened.

No sooner, therefore, did she hear of the plan proposed by the architects, but she put on her old red cloak, and was day and night trudging amongst the servants and tenants, crying out against the new roof, and the framers thereof. Amongst these she had selected *William*, *Jack*, and *Robert*, three of the servants, and instigated them to oppose the plan recommended. She caused them to be sent to the great hall on the day of debate, and furnish-

ed them with innumerable alarms and fears, cunning arguments, and specious objections.

Now, the principal argument and objections with which *Margery* had instructed William, Jack, and Robert, were these.

1st THAT the architects had not exhibited a bill of scantling * for the new roof, as they ought to have done ; and, therefore, the carpenters, under the pretence of providing timber for it, might lay waste whole forests, to the ruin of the farm.

2^{dly} THAT no provision was made in the plan for a trap door † for the servants to pass through with water, if the chimney should take fire, and that in case of such an accident it might hereafter be deemed penal to break a hole in the roof, for access, to save the whole building from destruction.

3^{dly} THAT this roof was to be guarded by battlements ‡, which in stormy seasons, would prove dangerous to the family, as the bricks might be blown down and fall on their heads.

4^{thly} IT was observed, that the old roof was ornamented

* Bill of rights.

† Liberty of the press.

‡ Standing army.

namented with twelve pedestals, * ranged along the ridge, which had been objects of universal admiration. Whereas, according to the new plan, these pedestals were only to be placed along the eaves of the roof over the walls. As to the cupola, some of the objectors said it was too heavy, and would prove a dangerous burden to the building; whilst others insisted that it was too light, and would certainly be blown away by the wind.

5^{thly} IT was urged, that the thirteen rafters would be so strongly braced together, that the individual and separate strength of each rafter would be lost in the compounded and united strength of the whole †; and so this roof might be considered as one solid mass of timber, and not as composed of distinct rafters like the old roof.

6^{thly} THAT, according to the proposed plan, the several parts of the roof were so framed as to mutually strengthen and support each other; and therefore, there was great reason to fear, that the whole might stand independent of the walls;

4

and,

* Trial by jury.

† That the sovereignties of the several states would be absorbed in the general government.

and, that in time the walls might moulder away, and the roof remain suspended in the air, threatening destruction to all who should come under it *.

To these objections, JAMES, the architect, in substance replied.

1st As to the want of a bill of scantling, he observed, that if the timber for this roof was to be purchased from a stranger, it would have been quite proper to have such a bill, lest the stranger should charge in account more than he was entitled to; but as the timber was to be cut from our own lands, a bill of scantling was both useless and improper. It was of no use, because the wood always was, and always would be, the property of the family, whether growing in the forest, or fabricated into a roof for the mansion-house; and improper, because the carpenters would be bound by the bill of scantling; which, if it should not be perfectly accurate, a circumstance not to be expected, either the roof would be defective for want of sufficient materials, or the carpenters must cut from the forest, without authority, which is penal by the laws of the house.

VOL. II.

U

2^{dly} To

* That it would be a consolidated government, and might exist independent of the people or of the states.

namented with twelve pedestals, * ranged along the ridge, which had been objects of universal admiration. Whereas, according to the new plan, these pedestals were only to be placed along the eaves of the roof over the walls. As to the cupola, some of the objectors said it was too heavy, and would prove a dangerous burden to the building; whilst others insisted that it was too light, and would certainly be blown away by the wind

5^{thly} IT was urged, that the thirteen rafters would be so strongly braced together, that the individual and separate strength of each rafter would be lost in the compounded and united strength of the whole †; and so this roof might be considered as one solid mass of timber, and not as composed of distinct rafters like the old roof.

6^{thly} THAT, according to the proposed plan, the several parts of the roof were so framed as to mutually strengthen and support each other; and therefore, there was great reason to fear, that the whole might stand independent of the walls;

4

and,

* Trial by jury.

† That the sovereignties of the several states would be absorbed in the general government.

and, that in time the walls might moulder away, and the roof remain suspended in the air, threatening destruction to all who should come under it *.

To these objections, JAMES, the architect, in substance replied.

1st As to the want of a bill of scantling, he observed, that if the timber for this roof was to be purchased from a stranger, it would have been quite proper to have such a bill, lest the stranger should charge in account more than he was entitled to; but as the timber was to be cut from our own lands, a bill of scantling was both useless and improper. It was of no use, because the wood always was, and always would be, the property of the family, whether growing in the forest, or fabricated into a roof for the mansion-house; and improper, because the carpenters would be bound by the bill of scantling; which, if it should not be perfectly accurate, a circumstance not to be expected, either the roof would be defective for want of sufficient materials, or the carpenters must cut from the forest, without authority, which is penal by the laws of the house.

VOL. II.

U

2^{dly} To

* That it would be a consolidated government, and might exist independent of the people or of the states.

2^{dly} To the second objection, he said, that a trap-door was not properly a part in the frame of a roof; but there could be no doubt but that the carpenters would take care to make such a door in the shingling for the family to carry water through, *dirty* or *clean*, to extinguish fire, either in the chimney or on the roof; and that this was the only proper way of making such a door.

3^{dly} As to the battlements, he insisted, that they were absolutely necessary for the protection of the whole house. 1st Because, in case of a sudden attack by robbers, the family could defend themselves behind these battlements, and annoy and disperse the enemy. 2^{dly} If any of the adjoining buildings should take fire, the battlements would screen the roof from the destructive flames. And, 3^{dly}, they would retain the rafters in their respective places, in case any of them should, from rottenness or warping, be in danger of falling from the general union, and injuring the other parts of the roof: observing also, that the battlements should always be ready for these purposes, as there would be neither time nor opportunity for raising battlements after an assault was actually made, or a conflagration begun. As to the bricks being blown down, and falling on the heads of the people, he said the whole would always be in
the

the power of the family, who could at any time repair or remove any loose and dangerous parts ; and there could be no doubt but that their vigilance would be fully sufficient to prevent accidents of this kind.

4^{thly} WITH respect to the twelve pedestals, he acknowledged their use and beauty ; but observed that these, like all other things, were only so in their proper places, and under circumstances suited to their nature and design : and he insisted that the ridge of a roof was not the place for pedestals, which should rest on the solid wall, being made of the same materials ; and ought, in propriety, to be considered as so many projections, or continuations of the wall itself, and not as component parts of the wooden roof. As to the cupola, he said, that all agreed that there should be one of some kind or other ; as well for a proper finish to the building, as for the purpose of indicating the winds, and containing a bell to sound the alarm in cases of necessity. The objections to the proposed cupola, he said, were too contradictory to merit a reply.

5^{thly} To the fifth objection, he answered : that the intention really was to make a firm and substantial roof, by uniting the strength of the thirteen rafters ; but that this was so far from annihilating

the several rafters, and rendering them of no use individually, that it was manifest, from a bare inspection of the plan, that the strength of each contributed to the strength of the whole, and that the existence of each and all was essential to the existence of the fabric as a roof.

6^{thly} AND lastly, he said, that the roof was, in truth, so framed as that the parts should mutually support and check each other. But it was absolutely absurd, and contrary to the known laws of nature, to infer from thence, that the whole frame could stand self-supported in the air. For, however its component parts might be combined with respect to each other, the whole must necessarily rest upon and be supported by the walls. That the walls might, indeed, stand for a few years in a ruinous and uninhabitable condition, without any roof; but the roof could not, for a moment, stand without the support of the walls: and finally, that of all dangers and apprehensions, this of the roof's remaining after the walls are gone, was the most absurd and impossible.

It was mentioned before, that whilst this debate was going on in the great hall, the windows and doors were crowded with attendants. Amongst these, was a half crazy fellow, who was suf-
fered

ferred to go at large as a harmless lunatic.* *Margery*, however, thought he might be a serviceable engine in promoting opposition to the new roof. As people of deranged understandings are easily irritated, she exasperated this poor fellow against the architects, and filled him with terrible apprehensions from the new roof; making him believe that the architects had provided a dark hole in the garret, where he was to be chained for life. Having by these suggestions filled his mind with rage and terror, she turned him loose amongst the crowd, where he roared and bawled to the great annoyance of the bye-standers.

THIS circumstance would not have been noticed, but for the opportunity of exhibiting the style and manner in which a half deranged and highly irritated mind will express itself. One of his rhapsodies shall conclude this narrative.

† THE new roof! the new roof!—Oh! the new
U 3 roof!

* A furious writer under the signature of *Philadelphienfis*.

* This fustian is a burlesque of a paper published under the signature of *PHILADELPHIENSIS*; the original is subjoined, taken from the *Independent Gazetteer* of Dec. 19, 1787. I had it in my power afterwards to detect and expose the real name of the author of these inflammatory publications, which put a stop to the productions of

roof! shall demagogues, despising every sense of order and decency, frame a new roof? If such bare-faced presumption, arrogance, and tyrannical proceedings will not rouse you, the whip and the goad—the whip and the goad—should do it. But you are careless and insecure sinners, whom neither admonitions, entreaties, or threatenings can reclaim. Sinners consigned to unutterable and endless wo. Where is that pusillanimous wretch who can submit to such contumely? Oh, for the *ultima ratio regum*! [He got these three Latin words from Margery] Oh! for the *ultima ratio regum*!—Ah! the days of Nero!—Ah! the days of Caligula!—Ah! the British tyrant and his infernal junto!—Glorious revolution!—Awful crisis!—Self-important nabobs—diabolical plots and secret machinations—Oh! the architects! the architects! They have seized the government, secured power, brow-beat with insolence, and assume majesty—Oh! the architects! They will treat you as conquered slaves

PHILADELPHIENSIS. He was an Irish schoolmaster, who had not been more than two years in the country, and who, without either property or reputation in America, endeavoured, under the cover of a fictitious signature, not only to enflame people against the plan of government proposed by America's best patriot's and most able statesmen; but even ventured to abuse and vilify such characters as GENERAL WASHINGTON, Dr. Franklin, and the gentlemen who composed the general convention, calling them in the public papers, *villains and conspirators*.

slaves—they will make you pass under the yoke, and leave their gluttony and riot to attend the pleasing sport—Oh! that the glory of the Lord may be made perfect!—that he would shew strength with his arm, and scatter the proud in the imaginations of their hearts! Blow the trumpet; sound an alarm. I will cry day and night. Behold, is not this my number *five*! attend to my words, ye women labouring of child; ye sick persons and young children. Behold, behold, the lurking places; the despots; the infernal designs; the lust of dominion and conspiracies. From battle and murder and sudden death, good Lord deliver us!

FIGURE to yourselves, my good fellows, a man with a cow and a horse.—Oh! the battlements, the battlements! they will fall upon his cow; they will fall upon his horse, and will wound them and bruise them, and put them to death; and the poor man will perish with hunger. Do I exaggerate? No, truly. Europe, Asia, and Indostan, deny it if you can. Oh God! what a monster is man! A being possessed of knowledge, reason, judgment, and an immortal soul. What a monster is man! But the architects are said to be men of skill and approved worth; then the more their shame;

shame—curse on the villains! We beseech thee
to hear us! Oh! ah! ah! oh!”

FROM THE INDEPENDENT GAZETTEER OF

JULY 19, 1787.

“ MY FELLOW-CITIZENS,

“ IF the arbitrary proceedings of the convention of Pennsylvania do not rouse your attention to the rights of yourselves and your children, there is nothing that I can say will do it. If the contempt and obloquy with which that body (whose legality even may be questioned) has treated your petitions, cannot bring you to think seriously, what then will? When a few demagogues, despising every sense of order and decency, have rejected the petitions of the people, and in the most supercilious manner triumphed over the freemen of America, as if they were their slaves, and they themselves their lords and masters; I say, that if such barefaced presumption and arrogance, such tyrannical proceedings of the men, who, if acting constitutionally, were the servants of the people, be not sufficient to awaken you to a sense of your duty and
interest,

interest, nothing less than the goad and the whip can succeed. Your condition must be like that of the insecure sinner, whom neither the admonitions nor entreaties of his friends, nor even the threatenings of awaiting justice, could reclaim, or convince of his error; his reformation is neglected until it is too late, when he finds himself in a state of unutterable and endless wo.

It may be asserted with confidence, that besides the petitions that Mr. Whitehill presented to the convention, from Cumberland county, against the adoption of the new constitution, there is not a county or town in the state that should not have followed the example, if a reasonable time had been allowed for the petitions to come in. Now, if we consider but for a moment how contemptuously the people were treated on this occasion, we may form some idea of the way in which they are hereafter to be governed by their *well born masters* —“ The petitions being read from the chair, Mr “ M’Kean said, that he was sorry that at this “ stage of the business so *improper* an attempt “ should be made; he hoped therefore that the “ petitions would not be *attended to*.” Where is the freeman in America that can tamely suffer such an insult to his dignity to pass with impunity? Where

Where is that pusillanimous wretch that can submit to this contumely? Is not this the language of Britain in the years 1775 and 1776 renewed? What said George the Third and his pampered ministers more than this to the petitions of America? Is it improper for freemen to petition for their rights? If it be; then I say that the impropriety consisted only in their not *demanding* them. Propriety requires that the people should approach their representatives with a becoming humility; but the governors of a free people must ever be considered as their servants, and are therefore bound to observe decency towards them, and to act according to their instructions, and agreeably to conscience. If the petitions of the freemen of America, couched in decent and respectful terms, will not be attended to; then, be it known, that their *demands* must and will be granted: if no better will do, the *ultima ratio regum* must secure to the people their rights. God in his providence has crowned them with success once already on this head; and there is little doubt, with the same assistance, but a second attempt will terminate just as much in favour of liberty.

THE indignity offered to the people and their petitions by the haughty lordlings of the convention

tion, proclaims the chains of despotism already firmly rivetted. Like a herald it cries aloud—Hush, ye slaves, how dare you interrupt your *mighty rulers*, who alone have a divine right to establish constitutions and governments, calculated to promote their own aggrandizement and honour. Ah! my friends, the days of a cruel Nero approach fast; the language of a monster, of a Caligula, could not be more imperious. I challenge the whole continent, the *well-born and their parasites*, to shew an instance of greater insolence than this, on the part of the British tyrant, and his infernal junto, to the people of America before our glorious revolution. My fellow-citizens, this is an awful crisis; your situation is alarming indeed; yourselves and your petitions are despised and trampled under the feet of self-important nabobs; whose diabolical plots, and secret machinations have been carried on since the revolution, with a view to destroy your liberties, and reduce you to a state of slavery and dependence: and, alas! I fear they have found you off your guard, and taken you by surprise. These aspiring men having seized the government, and secured all power, as they suppose to themselves, now openly brow-beat you with their insolence, and assume majesty; and even treat you like menial servants, your representatives as so many conquered slaves, that they intend to make pass under
the

the yoke, as soon as leisure from their gluttony and rioting on the industry of the poor, shall permit them to attend such a pleasing piece of sport.

BUT, I trust, these petty tyrants will soon find to their confusion, that their own imprudent zeal has declared their designs. Providence has ordered that they should begin to carry their arbitrary schemes too soon into execution, that boundless ambition should precipitate their destruction, and that the glory of God should be made perfect in the salvation of the poor. Blessed be his name: "he hath shewed strength with his arm: he hath scattered the proud in the imaginations of their hearts: he hath put down the mighty from their seat, and exalted them of low degree: he hath filled the hungry with good things, and the rich he hath sent empty away." As a villain, who secreted to rob and murder in the silent hour of night, issues forth from his lurking place before the people have retired to sleep, and thus frustrates his infernal design by impatience; so, in like manner, the lust of dominion has urged these despots on to the adoption of measures that will inevitably, and I hope immediately, unhinge every part of their conspiracy against the rights of their fellow-men, and bring on themselves infamy and disgrace.

FIGURE to yourselves, my brethren, a man with a plantation just sufficient to raise a competency for himself and his dear little children; but by reason of the immoderate revenue necessary to support *the emperor*, the illustrious *well-born congress*, *the standing army*, &c. &c. he necessarily fails in the payment of his *taxes*; then a hard-hearted federal officer seizes and sells his cows, his horses, and even the land itself must be disposed of to answer the demands of government. He pleads unfruitful seasons, his old age, and his numerous and helpless family. But, alas! these avail him nothing; his farm, his cattle, and his all are sold for less than half their value, to his wealthy neighbour, already possessed of half the land in the county, to whom also, himself and his children must become servants and slaves, or else perish with hunger and want! Do I exaggerate here? No, truly. View the misery of the poor under the despotic governments of Europe and Asia, and then deny the truth of my position if you can. It is a common saying among the poor of Indostan, that to lie is better than to stand, to sleep is better than to wake, but death is best of all, for it delivers them from the cruelty of their nabobs. Even in the freest country in Europe, a lady's lap-dog is more esteemed than the child of a poor man

man. Oh God ! what a monster is man ! that a dog should be nourished and pampered up by him with dainties, whilst a being possessed of knowledge, reason, judgment, and an immortal soul, bought with no less a price than the blood of our divine Redeemer, should be driven from his door, without admitting him, even for a moment, to assuage his hunger with the crumbs that might fall from his table.

BUT the members of the federal convention were men who have been all tried in the field of action, say some ; they have fought for American liberty : then the more to their shame be it said. Curse on the villain, who protects virgin innocence only with a view that he may himself become the ravisher ; so that, if the assertion was true, it only turns to their disgrace ; but, as it happens, it is not true, or at least only so in part. This was a scheme taken by the despots and their sycophants to bias the public mind in favour of the constitution ; for the convention was composed of a variety of characters : ambitious men, jesuits, tories, lawyers, &c. formed the majority, whose similitude to each other consisted only in their determination to lord it over their fellow-citizens ; like the rays that, converging from every direction, meet in a point,

and their sentiments and deliberations concentered in tyranny alone ; they were unanimous in forming a government that should raise the fortunes and respectability of the *well born* few, and oppress the plebeians.

PHILADELPHIENSIS, N° V.

THE

THE
NEW ROOF:
A SONG FOR
FEDERAL MECHANICS.

I.

COME muster, my lads, your mechanical tools,
Your saws and your axes, your hammers and rules;
Bring your mallets and planes, your level and line,
And plenty of pins of American pine:
*For our roof we will raise, and our song still shall be,
Our government firm, and our citizens free.*

II.

COME, up with *the plates*, lay them firm on the wall,
Like the people at large, they're the ground work of all;
Examine them well, and see that they're sound,
Let no rotten part in our building be found:
*For our roof we will raise, and our song still shall be
A government firm, and our citizens free.*

III.

III.

Now hand up the *girders*; lay each in his place,
Between them the *joists*, must divide all the space;
Like assemblymen *these* should lie level along,
Like *girders*, our senate prove loyal and strong:
For our roof we will raise, and our song still shall be
A government firm over citizens free.

IV.

THE *rafters* now frame; your *king-posts* and *braces*,
And drive your pins home, to keep all in their places;
Let wisdom and strength in the fabric combine,
And your pins be all made of American pine:
For our roof we will raise, and our song still shall be,
A government firm over citizens free.

V.

OUR *king-posts* are *judges*; how upright they stand,
Supporting the *braces*; the laws of the land:
The laws of the land, which divide right from wrong,
And strengthen the weak, by weak'ning the strong:
For our roof we will raise, and our song still shall be,
Laws equal and just, for a people that's free.

VI.

UP! up! with the *rafters*; each frame is a *state*:
How nobly they rise! their span, too, how great!
From the north to the south, o'er the whole they extend,
And rest on the walls, whilst the walls they defend:
For our roof we will raise, and our song still shall be
Combined in strength, yet as citizens free.

THE
NEW ROOF:
A SONG FOR
FEDERAL MECHANICS.

I.

COME muster, my lads, your mechanical tools,
Your saws and your axes, your hammers and rules;
Bring your mallets and planes, your level and line,
And plenty of pins of American pine:
*For our roof we will raise, and our song still shall be,
Our government firm, and our citizens free.*

II.

COME, up with *the plates*, lay them firm on the wall,
Like the people at large, they're the ground work of all;
Examine them well, and see that they're sound,
Let no rotten part in our building be found:
*For our roof we will raise, and our song still shall be
A government firm, and our citizens free.*

III.

III.

Now hand up the *girders*, lay each in his place,
Between them the *joists*, must divide all the space;
Like assemblymen *these* should lie level along,
Like *girders*, our senate prove loyal and strong:
For our roof we will raise, and our song still shall be
A government firm over citizens free.

IV.

THE *rafters* now frame; your *king-posts* and *braces*,
And drive your pins home, to keep all in their places;
Let wisdom and strength in the fabric combine,
And your pins be all made of American pine:
For our roof we will raise, and our song still shall be,
A government firm over citizens free.

V.

OUR *king-posts* are *judges*; how upright they stand,
Supporting the *braces*; the laws of the land:
The laws of the land, which divide right from wrong,
And strengthen the weak, by weak'ning the strong:
For our roof we will raise, and our song still shall be,
Laws equal and just, for a people that's free.

VI.

Up! up! with the *rafters*; each frame is a *state*:
How nobly they rise! their span, too, how great!
From the north to the south, o'er the whole they extend,
And rest on the walls, whilst the walls they defend:
For our roof we will raise, and our song still shall be
Combined in strength, yet as citizens free.

VII.

Now enter the *purlins*, and drive your pins through ;
And see that your joints are drawn home and all true.
The *purlins* will bind all the rafters together :
'The strength of the whole shall defy wind and weather :
For our roof we will raise, and our song still shall be,
United as states, but as citizens free.

VIII.

COME, raise up the *turret* ; our glory and pride ;
In the centre it stands, o'er the whole to *preside* :
The sons of Columbia shall view with delight
Its pillar's, and arches, and towering height :
Our roof is now rais'd, and our song still shall be,
A federal head o'er a people that's free.

IX.

HUZZA ! my brave boys, our work is complete ;
The world shall admire Columbia's fair feat ;
Its strength against tempest and time shall be proof,
And thousands shall come to dwell under our roof :
Whilst we drain the deep bowl, our toast still shall be
Our government firm, and our citizens free.

AN INTERCEPTED LETTER

FROM THE AUTHOR OF

T H E C E N T I N E L,*

TO HIS FRIEND IN———COUNTY.

PHILADELPHIA, Jan. 19, 1783.

DEAR SIR,

I Received your letter by Mr ***** and am very sorry to find that your exertions in the county of ***** have been attended with so little success. I expected long before this to have heard of a commotion begun. It is indeed high time that something vigorous should be attempted, otherwise the spirit of our cause will languish, and when once that spirit hath evaporated it will not be in our power to recal it.

You know it was always our opinion, that the great gun should be charged here in the city, and
fired

* A most inflammatory and abusive paper under the title of THE CENTINEL.

fired off in one of the western counties, I am sure I have not been remiss in my part of the business. Have I not already charged it with eleven cartridges well rammed down; and when I am every moment expecting the explosion, you only urge me to double my diligence and ram away. In short, I am almost weary of this fruitless toil. I don't find that my publications have had the desired effect here; I would fain hope that they have been more operative in the counties; if so, you should have informed me, for I want encouragement more than a spur.

WHILST I am issuing number after number of my Centinel, all written with a freedom and spirit sufficient, one would think, to rouse the people; I say, whilst I am doing this, the states, one after another, either unanimously, or by very large majorities, are ratifying the new constitution. You have heard, or will hear, that Connecticut has adopted it by a majority of 127 to 40 in their state convention. Besides this, I have the mortification to see my Centinels printed, and re-printed, but never replied to. Attempts to answer would afford fresh sources of argument; can any thing be more provoking or discouraging? I have rung the changes upon the liberty of the press; the trial by jury;

jury ; despotism and tyranny : and am reduced to the necessity of repeating in different words the same railings against the new constitution, and the same abuse against the framers of it.

THE novelty of this boldness is over, and my pieces are now scarcely read. I am astonished that such extraordinary exertions have had so little effect with the people. I have directly, and without reserve, called the members of the late general convention, with general W—n at their head, villians, traitors, fools and conspirators, collectively and individually, and yet the mob does not rise. I have often told you, that it is of no great importance on which side an insurrection takes place—all that is necessary, is to have a commotion begun. A faction can always turn public confusion to its own account. I was in great hopes that the attack upon Major Boyd's house would have produced something ; it was indeed serviceable to our party, but the flame was too weak to spread ; the law interfered and extinguished it entirely. A mob is not worth a farthing, unless, by its great numbers, or the weight and influence of its leaders, it can stoutly look law in the face, and bid defiance to its operation.

You tell me that you have enlisted about 60 insurgents—but what can they do? 600 in each of the counties would have been more to the purpose. Either you must have been very negligent, or your influence in the county is not as great as you gave us reason to believe.

You say you have constantly attended at taverns, vendues, funerals and other public meetings—liberally treated those whom your thought it might be of use to gain—distributed my Centinels, and watched the most favourable opportunities for inflaming the minds of the people. This is all very well; but if the consequence has been no more than the association of 60 insurgents, it is certainly very poor doings. If our friends have done no better in the other counties, and I have not yet heard that they have done any thing, our party had better tack about, and cry up the new constitution, that some of us may stand a chance at least for a share in the loaves and fishes. For if, notwithstanding our opposition, this new constitution should be established, we shall always be looked upon as disaffected to the government, and unfit to be trusted with offices under it.

Our champions in the other states begin to fall off. You have seen, I suppose, governor R——'s letter;

letter ; and I am told, that R—— H—— L—— and Mr. M—— have dropped all opposition. Unless some extraordinary exertions are made, and speedily too, our whole scheme must fall to the ground. Only imagine what a ridiculous figure I make here. I am every week publishing things, which, in any other country would bring the author to the gallows, as a seditious disturber of the public peace—and yet nothing comes of it. My performances, as I said before, do not even provoke a reply. Can any thing be more mortifying ? In the mean time, the new constitution is taking root in the other states. And it must be confessed, that in every instance where the people have been legally brought together, either in conventions, or as assemblymen, grand juries, or otherwise, they have uniformly declared themselves in favour of it. These are great obstacles to our views. We have affected the popular side of the question, and the voice of the people is decidedly against us. Patriotism, not supported by the body, the citizens is always denominated *faction*.

To conclude, unless we can do something speedily, towards raising a respectable commotion in the state, it is my opinion that we ought to prepare for joining the general current in favour of this new system of government : and this may be plausibly effected by
 declaring

declaring that we never had any thing in view but the good of our country : that the new constitution appeared, in our judgments, to contain many things objectionable, and some things even dangerous, to the liberties of the people. But as the general opinion seems to be otherwise, we resign our prejudices to the will of the majority, as every good citizen ought to do : and since we find that the proposed system of a federal government is indeed likely to be established, we shall not be behind any in zealous exertions for its support.

THINK of these things, and let me hear from you as soon as possible. In the mean time,

I am, dear sir,

Your's, &c.

CENTINEL.

OBJEC.

O B J E C T I O N S

TO THE PROPOSED PLAN OF A FEDERAL GOVERNMENT FOR

THE UNITED STATES, ON

G E N U I N E P R I N C I P L E S.

AT a Meeting of the *Wheel-barrow* Society*
in the prison yard, Philadelphia, Febuary 8th.
1788.

Present fifty eight members.

Jem. Doran in the chair.

AFTER mature discuffion, the fociety unanimouf-
ly agreed in the following

FUNDAMENTAL PRINCIPLES.

1st *Pure natural liberty*, is the right of every
man to do whatever he pleases *without controul*,
and

* Convicts condemned to the Wheel-Barrow for various crimes.

and to possess, *without retribution*, whatever he can acquire by his *valour* or *address*.

2^d STATES or sovereign powers are as individuals in a state of nature; and therefore true *political liberty*, or the liberty of a state as a body politic, is the right of that state, or of those who are in possession of the sovereignty thereof, to do such things, and enact such laws, as may be thought conducive to the advancement of the powers and interests of that state, or of the government thereof, uncontrouled by the artificial system of restraints, known by the name of the *law of nations*.

3^d ALL systems of government, whether operating on states, or on individuals, although ostensibly formed, and speciously declared to be for the establishment of general justice and of general good, ought to be abhorred by the true sons of freedom as invasions on, and abridgments of their natural rights.

4th WHEREAS in the present imperfect state of things, *true natural liberty*, as defined in our first fundamental principle, cannot be universally enjoyed, necessity enforces a submission to what is called government, under some form or other.

5th

5th ACCORDING to the foregoing principles, *that* form of government is the best which contains the fewest restraints, and leaves in the hand of the governed the greatest portion of *natural liberty*, and the fullest scope for the exercise of *personal prowess* and *native ingenuity*, it being demonstrable, that if the component parts of any society are left free, and become, *by any means*, rich and happy, the whole of that society will be free, rich and happy.

6th THE worst of all possible governments is that in which the vigorous operation of general laws, and a complication of internal checks, restraints and regulations, prevent individual states or persons from pursuing their separate interest *in their own way*; most wickedly sacrificing the real emolument of individuals to the visionary good and prosperity of the whole.

THESE *fundamental principles* being established, the plan of government proposed by the late general convention for the United States was taken up; considered by paragraphs, and compared with the doctrines laid down; and after some debate the following resolutions were unanimously adopted. viz.

1st RESOLVED, That the constitution proposed for the United States, is a *consolidated government*, pregnant with the seeds of coercion and restraint, and therefore a system of tyranny and oppression.

2^d RESOLVED, That under such a government, neither states nor individuals can do, or refuse to do, whatever they please in all cases; which is a direct infringement on the natural liberty of both, as defined in our first fundamental principle.

3^d RESOLVED, That under such a government, men of education, abilities, and property, commonly called the *well-born*, will be most likely to get into places of power and trust, to the exclusion of a large majority of citizens of a contrary description.

4th RESOLVED, That as this constitution most arbitrarily and inhumanly prohibits the emission of *Paper-Money*, and other resources by which the unfortunate debtor may throw off the discouraging burthen of his obligations, it ought to be considered, as in fact it is, a system of tyranny and oppression, compelling citizens, in many instances, to do things extremely disagreeable and contrary to their present interest.

5th RE-

5th RESOLVED, That under such a government, the industrious and wealthy may enjoy their property in security, to the great injury of those who have no property at all.

6th RESOLVED, That under such a government, there will be no encouragement for gentlemen of adventure and address, to procure subsistence and wealth by extraordinary modes of acquirement ; because what is called the vigour of government will pervade the whole union.

7th RESOLVED, That the system proposed, is consonant with our 6th fundamental principle, and the worst of all possible governments ; and therefore,

8th RESOLVED, That the members of the late general convention, who framed, voted for, and recommended this plan of government, and all state conventions which have, or hereafter shall adopt and ratify the same ; and all those individuals, who by word of mouth, by writing and publishing, or by any other means, shall express their approbation of the said infamous constitution are, and ought to be, considered by all the true sons of liberty, as demagogues, aristocrats, conspirators

conspirators, traitors, tyrants, and enemies of the natural rights of mankind.

9th RESOLVED, That as we are the most numerous and respectable body that hath as yet combined formally to avow and publish a disapprobation of this new constitution, it is fit and proper that we should be regularly organised, that other worthy mal-contents in this and the other states may, by association or election, be annexed to our community, and so form a union of strength to oppose the establishment of this tyrannical government ; therefore,

10th RESOLVED, That we will now proceed to the election of a president, vice-president, and secretary.

WHEREUPON the ballots, being fairly taken and counted, stood as follows.

P R E S I D E N T.

	Votes.
For the author of the pieces signed <i>Centinel</i> ,	51
For <i>Jem Doran</i> ,	5
For <i>Arthur M'Garrity</i> ,	2

V I C E -

VICE-PRESIDENT.

	Votes.
FOR <i>L—— M——</i> , Esquire of Maryland,	47
For <i>Daniel Cronan</i> ,	8
For <i>Pat Dalton</i> ,	3

SECRETARY.

FOR the author of the papers signed <i>Philadelphiensis</i> ,	30
For <i>Kit Carbery</i>	28

THE following members were then appointed a committee of correspondence, viz. Jem. Doran, Arthur M^cGarrity, John Doughty, Pat. Dalton, Daniel Cronan, James Bulger, and Kit Carberry, to hold communication with the adherents of General Shays in the state of Massachusetts, and with other worthy opposers in the several states.

AFTER ordering that these their proceedings should be published, the society resumed their daily occupation of cleaning the streets and common sewers.

SOME THOUGHTS
ON THE
DISEASES OF THE MIND;
WITH A
SCHEME FOR PURGING THE MORAL FACULTIES
OF THE
GOOD PEOPLE OF PENNSYLVANIA.
QUITE NEW AND VERY PHILOSOPHICAL.

THAT there is an intimate connection between the soul and the body, and that the one is apt to be affected by the disorders and irregularities of the other, is a truth too manifest to be controverted. How this connection is formed, to what extent it exists, and what are the visible organs of the body which compose the intermediate links of union, with
the

CAT. Ha! ha! ha!—You may well *see* things in a different light, truly—Why, your eye-balls are turned out of their sockets into open sunshine.

DOG. No matter; let me ask you—was there not an attempt made to have this city incorporated, with a view to its better government, and for the removal of what are called nuisances, abuses, and impositions?

CAT. Yes; but the cry of *mad dog* was raised against the bill, as in the case of your worship; and it was knocked on the head.

DOG. Don't you think the thing may be again attempted with success?

CAT. Doubtless; provided the principal opposer be recommended as *mayor*; the next in vociferation *recorder*; and the rest *aldermen*. For, depend upon it, this is a true republican maxim: "Power is a very dangerous weapon; yet if you will put it into my hands, I shall use it with so much lenity and discretion, as to make it a public blessing: but no man else ought to be trusted."

DOG. Have you any thing more to say, for in truth I grow tired of your conversation?

Y

CAT.

CAT. Only this: it is whispered that the street commissioners hold a monthly feast; at which the principal dish is two large ram-cats, smothered in onions. Numbers observed, or might have observed, two skinned cats, lying in Chestnut-street, near Third-street: these had been prepared for this same love-feast: but as the gentlemen are very nice in their eating, they were thought not fat enough for their table, and so were thrown into the common stock in the street, and a brace of better fed cats provided for the entertainment.

You grow impatient, or I meant to say something of *the dock*, that great ornament of our city: I could also give you a hint of a remarkable revolution in politics, which is even now working its way, and will shortly shew itself—a revolution, which——

A carriage passing swiftly along at this instant, ran across the cat, and turned her fairly over; so that the side which had been next the ground was now uppermost, which circumstance totally changed the subject of conversation: for, as was before observed, this dialogue was maintained by an interference of atmospheres. Now, the volatile particles which had been for many days sweltering next the earth, were of a very different nature from those
which

which emanated from a surface exposed to the open air, and of course had a very different effect.

SOMETHING like this may be observed in animal life. If a man, when he goes to bed, indulges a train of thoughts, lying on his left side, when he turns on his right side, the whole train of ideas vanishes; and he can scarcely by any efforts of the mind, recover the same thread of cogitation, unless the subject was of a very interesting nature. So, in dreaming, a change of position in the body never fails to change the whole scenery in which the imagination had been engaged.

A. B.

March 1784.

MODERN LEARNING:
EXEMPLIFIED BY A
SPECIMEN
OF A
COLLEGIATE EXAMINATION.

METAPHYSICS.

*PROF. WHAT is a SALT-BOX?

STU. It is a box made to contain falt.

PROF. How is it divided?

STU. Into : falt-box, and a box of falt.

PROF. Very well!—shew the distinction.

STU. A falt-box may be where there is no falt;
but falt is absolutely necessary to the existence of
of a box of falt.

PROF.

* Prof. professor; Stu. student; gov. governor of the institution.

PROF. Are not salt-boxes otherwise divided?

STU. Yes : by a partition.

PROF. What is the use of this partition?

STU. To separate the coarse salt from the fine.

PROF. How?—think a little.

STU. To separate the fine salt from the coarse.

PROF. To be sure :—it is to separate the fine from the coarse : but are not salt-boxes yet otherwise distinguished?

STU. Yes : into *possible*, *probable* and *positive*.

PROF. Define these several kinds of salt-boxes.

STU. A *possible* salt-box is a salt-box yet unfold in the hands of the joiner.

PROF. Why so?

STU. Because it hath never yet become a salt-box *in fact*, having never had any salt in it; and it may possibly be applied to some other use.

PROF. Very true :—for a salt-box which never had, hath not now, and perhaps never may have, any salt in it, can only be termed a *possible* salt-box. What is a *probable* salt-box?

STU. It is a falt-box in the hand of one going to a shop to buy falt, and who hath fix-pence in his pocket to pay the grocer : and a *positive* falt-box is one which hath actually and *bona fide* got falt in it.

PROF. Very good :—but is there no instance of a *positive* falt-box which hath no falt in it ?

STU. I know of none.

PROF. Yes : there is one mentioned by some authors : it is where a box hath by long use been so impregnated with falt, that although all the falt hath been long since emptied out, it may yet be called a falt-box, with the same propriety that we say a falt herring, falt beef, &c. And in this sense any box that may have accidentally, or otherwise, been long steeped in brine, may be termed *positively* a falt-box, although never designed for the purpose of keeping falt. But tell me, what other division of falt-boxes do you recollect ?

STU. They are further divided into *substantive* and *pendant* : a *substantive* falt-box is that which stands by itself on the table or dresser ; and a *pendant* is that which hangs upon a nail against the wall.

PROF.

PROF. What is the idea of a falt-box?

STU. It is that image which the mind conceives of a falt-box, when no falt-box is present.

PROF. What is the abstract idea of a falt-box?

STU. It is the idea of a falt-box, abstracted from the idea of a box, or of falt, or of a falt-box, or of a box of falt.

PROF. Very right:—and by these means you acquire a most perfect knowledge of a falt-box: but tell me, is the idea of a falt-box a falt idea?

STU. Not unless the ideal box hath ideal falt in it.

PROF. True:—and therefore an abstract idea cannot be either falt or fresh; round or square; long or short: for a true abstract idea must be entirely free of all adjuncts. And this shews the difference between a falt idea; and an idea of falt.—Is an aptitude to hold falt an *essential* or an *accidental* property of a falt-box?

STU. It is *essential*; but if there should be a crack in the bottom of the box, the aptitude to
spill

spill salt would be termed an *accidental* property of that salt-box.

PROF. Very well! very well indeed!—What is the salt called with respect to the box?

STU. It is called its contents.

PROF. And why so?

STU. Because the cook is content *quoad hoc* to find plenty of salt in the box.

PROF. You are very right—I see you have not mispent your time: but let us now proceed to

L O G I C.

PROF. How many parts are there in a salt-box?

STU. Three. *Bottom, top, and sides.*

PROF. How many modes are there in salt-boxes?

STU. Four. The *formal*, the *substantial*, the *accidental*, and the *topsey-turvey*.

PROF.

PRO. Define these several modes,

STU. The *formal* respects the figure or shape of the box, such as round, square, oblong, and so forth; the *substantial* respects the work of the joiner; and the *accidental* depends upon the string by which the box is hung against the wall.

PROF. Very well—And what are the consequences of the *accidental* mode?

STU. If the string should break the box would fall, the salt be spilt, the salt-box broken, and the cook in a bitter passion: and this is the accidental mode with its consequences.

PROF. How do you distinguish between the top and bottom of a salt-box?

STU. The top of a box is that part which is uppermost, and the bottom that part which is lowest in all positions.

PROF. You should rather say the lowest part is the bottom, and the uppermost part is the top.—How is it then if the bottom should be the uppermost?

STU. The top would then be the lowermost; and so the bottom would become the top, and
the

the top would become the bottom : and this is called the *topsey-turvey* mode, which is nearly allied to the *accidental*, and frequently arises from it.

PROF. Very good—But are not falt-boxes sometimes single and sometimes double ?

STU. Yes.

PROF. Well, then mention the several combinations of falt-boxes with respect to their having falt or not.

STU. They are divided into single falt-boxes having falt ; single falt-boxes having no falt ; double falt-boxes having falt ; double falt-boxes having no falt ; and single double falt-boxes having falt and no falt.

PROF. Hold ! hold !—you are going too far.

GOV. We cannot allow further time for logic, proceed if you please to

NATURAL

NATURAL PHILOSOPHY.

PROF. Pray Sir, what is a falt-box?

STU. It is a combination of matter, fitted, framed, and joined by the hands of a workman in the form of a box, and adapted to the purpose of receiving, containing, and retaining falt.

PROF. Very good—What are the mechanical powers concerned in the construction of a falt-box?

STU. The ax, the saw, the plane, and the hammer.

PROF. How are these powers applied to the purpose intended?

STU. The *ax* to fell the tree, the *saw* to split the timber.

PROF. Consider. It is the property of the mall and wedge to split.

STU. The *saw* to *slit* the timber, the *plane* to smooth and thin the boards.

PROF.

PROF. How ! Take time ! Take time !

STU. To thin and smooth the boards.

PROF. To be sure—The boards are first thinned and then smoothed—go on—

STU. The *plane* to thin and smooth the boards, and the *hammer* to drive the nails.

PROF. Or rather tacks—Have not some philosophers considered *glue* as one of the mechanical powers ?

STU. Yes ; and it is still so considered, but it is called an inverse mechanical power : because, whereas it is the property of the *direct* mechanical powers to generate motion, and separate parts ; *glue*, on the contrary, prevents motion, and keeps the parts to which it is applied fixed to each other.

PROF. Very true—What is the mechanical law of the *saw* ?

STU. The power is to the resistance, as the number of teeth and force impressed multiplied by the number of strokes in a given time.

PROF.

PROF. Is the *saw* only used in flitting timber into boards?

STU. Yes, it is also employed in cutting boards into lengths.

PROF. Not *lengths*: a thing cannot properly be said to have been cut into *lengths*.

STU. Into *shortnesses*.

PROF. Certainly—into shortnesses. Well, what are the mechanical laws of the hammer?

Gov. The time wastes fast; pass on to another science.

M A T H E M A T I C S.

PROF. What is a *falt-box*?

STU. It is a figure composed of lines and surfaces.

PROF. What are the external figures of a falt-box?

STU.

STU. Four parallelograms and two squares.

PROF. How are these disposed?

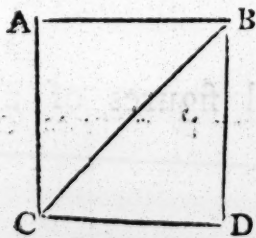
STU. The four parallelograms are thus disposed: The *superior*, or top; the *anterior*, or front; the *inferior*, or bottom; and the *posterior*, or back; and the two squares from the two ends.

PROF. Very good—Let us now consider one of the squares at the end of the salt-box. Suppose then a diagonal line to be drawn from one of the angles of this square to the opposite angle of the same, what will be the consequence?

STU. It will divide the square into two equal and similar triangles.

PROF. Very true.—But can you demonstrate that these two equal and similar triangles are equal to each other?

STU. I draw the square A B C D, whose sides are all equal, and the contained angles, all right angles. I then draw the diagonal B C, dividing the square into two equal parts. Then I say, that one of those equal parts, viz.



viz. the triangle ABC is equal to the other equal part or triangle BCD ; and further, that those two triangles are not only equal, but similar. For by the 105th proposition of the 49th book of *Euclid*, if in two triangles, all the lines and angles of the one, are equal to all the corresponding lines and angles of the other, those two triangles will be equal and similar. But the leg AB of the triangle ABC , is equal to the leg CD of the triangle BCD , because they are two of the sides of the square $ABCD$, equal by construction: and the leg AC is equal to the leg BD for the same reason; and because the hypotenuse BC is common to both triangles, therefore the hypotenuse of the triangle ABC is equal to the hypotenuse of the triangle BCD . Now, because by the 115th proposition of the same book, equal legs subtend equal angles of the same radii; it follows, that all the angles of the triangle ABC are equal to the corresponding angles of the triangle BCD : *ergo*, those two triangles are equal and similar: and *ergo*, if a square be cut by a diagonal line into two equal parts, those parts will be equal. QCD .

PROF. Very well! very well indeed!—Suppose now a right line to be let fall from a given point above a salt-box, till it shall touch the *superior* paral-

parallelogram, and another right line to be let fall from the same point till it should touch the *inferior* parallelogram of the same salt-box, can you demonstrate that these two lines must be unequal : Or, in other words, can you prove that a line of 12 inches is shorter than a line of 18 inches in length ?

STU. If two lines—

Gov. We have just received intelligence that dinner is almost ready ; and as the medical class is yet to be examined, we cannot afford time for this demonstration. Let the medical gentlemen come forward.

A N A T O M Y.

PROF. What is a salt-box ?

STU. It is a body composed of wood, glue, nails and hinges.

PROF. How is this body divided ?

STU. Into *external* and *internal*.

PROF. Very good—*external* and *internal*—very proper indeed—And what are the *external* parts of a falt-box?

STU. One *fundamental*, four *laterals* and one *superlateral*.

PROF. And how do you find the *internal* parts of a falt-box?

STU. Divided by a vertical membrane or partition into two large cavities or sinuffles.

PROF. Are these cavities always equal?

STU. They used to be so formerly; but modern joiners have thought it best to have them unequal, for the more convenient accommodation of the viscera or contents; the larger cavity for the reception of the coarser viscera, and the smaller for the fine.

PROF. Very true—thus have modern joiners, by their improvements, excelled the first maker of falt-boxes—Tell me now what peculiarity do you observe in the *superlateral* member of a falt-box?

STU. Whereas all the other members are fixed
Z and

and stationary with respect to each other, the superlateral is moveable on a pair of hinges.

PROF. To what Purpose it is so constructed?

STU. For the admission, retention, and emission of the saline particles.

Gov. This is sufficient—Our time is short—dinner must not wait—let us now proceed to

SURGERY, AND THE PRACTICE OF PHYSIC.

PROF. Mention a few of the principle disorders to which a salt-box is liable.

STU. A cracked and leaky fundamental; a gaping of the joint in the laterals; luxation of the hinges; and an accession and concretion of filth and foulness external and internal.

PROF. Very well—How would you treat those disorders?—begin with the first.

STU. I would caulk the leaky fundamental with pledgets of tow, which I would secure in the fissure by a strip of linen or paper pasted over.

For

For the starting of the lateral joints, I would administer powerful astringents, such as the *gluten corneum*; and would bind the parts together by triple bandages until the joints should knit.

PROF. Would you not assist with chalybeates?

STU. Yes—I would at—*tack* the disease with prepared iron, in doses proportioned to the strength of the parts.

PROF. How would you manage the luxation of the hinge?

STU. I would first examine whether it was occasioned by the starting of the points which annex the processes to the *superlateral* or its *antagonist*, or to a loss of the fulcrum, or to an absolute fracture of the futures. In the first case, I would secure the process by a screw; in the second, I would bring the futures together, and introduce the fulcrum; and in the last, I would entirely remove the fractured hinge, and supply its place, *pro tempore*, with one of leather.

PROF. Very well, sir!—very well!—Now for your treatment in case of accumulated foulness, ex-

ternal and internal—But first tell me, how is this foulness contracted ?

STU. *Externally*, by the greasy hands of the cook; and *internally*, by the solution and adhesion of the saline particles.

PROF. True—And now for the cure.

STU. I would first evacuate the *abominable* vessel, through the *prima via*. I would then exhibit detergents and diluents; such as the saponaceous preparation, with great plenty of *aqua fontana*.

PROF. Would not *aqua cælestis* do better ?

STU. Yes—Plenty of *aqua cælestis* with the marine sand. I would also apply the friction brush, with a brisk and strong hand, until the excrementitious concrete should be totally dissolved and removed.

PROF. Very proper—What next ?

STU. I would recommend the cold bath, by means of a common pump ; and then apply lintal absorbents ; and finally exsiccate the body by exposure

position either in the sun, or before the kitchen fire.

PROF. In what situation would you leave the superlateral valve during the exciccating operation?

STU. I would leave it open to the extent, in order that the rarefied humidities might freely exhale from the *abominable* cavities or sinusses.

C H E M I S T R Y.

PROF. You have mentioned the saponaceous preparation—Pray, how is that procured?

STU. By the action of a vegetable alkaline salt upon a pinguidinous or unctuous substance.

PROF. What is salt?

STU. It is a substance *sui generis*, pungent to the taste, of an antiseptic quality, and is produced by crystallization on the evaporation of the fluid in which it is suspended.

PROF. How many kinds of salt occur in a salt-box?

STU. Two—coarse and fine.

PROF. You have said that the saponaceous preparation is produced by the action of a vegetable alkaline salt on a pinguidinous or unctuous substance—describe the process.

STU. If a great quantity of strong *lie* be procured by passing water through wood ashes, and if a very large body of a pinguidinous habit should be immersed in this *lie*, and exposed to a considerable heat, the action of the *lie*, or rather of the salts with which it abounds upon the pinguidinous body, would cause the mixture to coagulate and [Here the examiner looked very sour, for he was *very fat*.]

AT this instant a servant announced that dinner was on the table—The examination was concluded, and the parties separated—One rejoicing in the anticipation of a feast, and the examined happy in finding the fiery trial over.

May 1784.

A N

A D D R E S S

TO THE

AMERICAN PHILOSOPHICAL SOCIETY,

HELD AT PHILADELPHIA, FOR PROMOTING USEFUL

KNOWLEDGE:

(Delivered January 16, 1784.)

Gentlemen,

HAVING observed, with real concern, the state of supineness and neglect into which this society seems to have fallen, I cannot suppress the zeal that urges me to attempt something that may draw your attention to the important purposes for which the legislature hath incorporated you as a philosophical society, and to propose some regulations which may, in my opinion, prove beneficial to this institution.

PRE-

PREVIOUS to the late war our society was making considerable progress towards becoming useful and famous : it had already attracted the notice of learned men in Europe. The communications, by members at home and abroad were frequent and valuable ; so that in its infant state, it was enabled to publish a volume of transactions which stamped a credit on the society, and made it an object worthy of public encouragement.

THIS fair prospect, however, was totally overcast by the dreary tempest of war. The still voice of philosophy could not be heard amidst the hostile din of arms, the thunder of the cannon, and the horrible confusion of ravaged countries and plundered cities.

By the blessing of Almighty God, the prudent and heroic conduct of the citizens and soldiers of America, and the friendly assistance of a powerful ally, this war, which threatened so loudly, hath terminated in the establishment of our independence, and a peace highly honourable and advantageous to us.

IT is now time—it is high time—that philosophy should again lift up her head. Political sovereignty being thus secured to us, the eyes of Europe are
turned

turned towards America—And with what view? Not altogether to contemplate the peculiarities of our government. If our systems should be bad, we shall be the chief sufferers; if they are wise and good, we shall reap the chief advantage—foreign nations are not directly interested in this speculation. But they look towards us as a country that may be a great nursery of arts and sciences—As a country affording an extensive field of improvement in agriculture, natural history, and other branches of useful knowledge. They look to those future philosophers, who shall search nature in her hidden recesses; in regions yet unexplored; in depths and caverns, which the light of day hath never yet illumined.

No sooner were the glad tidings of peace announced, but many of the literati of Europe were hasty to encourage our pursuits by their friendly notice. The many letters, with presents of useful and curious books we have lately received, evince this.

IN what an interesting situation, then, are we placed? And in this interesting situation permit me to ask, what are we doing? I am truly sorry that the answer to this question should amount to little more than this—we are returning very civil
acknow-

acknowledgements for the letters and presents so received.

It may, indeed, reasonably be supposed, that every citizen of America must find himself intimately interested in the political concerns of his country; left in an unsettled state by the confusions of war; and deeply engaged in the arrangement and establishment of a new empire, to which the late important revolution hath given birth.

BUT these excuses, however substantial, cannot avail us long. If it shall be perceived, that year after year elapses, and nothing interesting is produced, no discoveries made, or even attempted to be made: when it shall be perceived, that our barrenness must be occasioned, either by a want of abilities, or which is, indeed, the truth, by a shameful want of attention, we must unavoidably sink into contempt: and when this shall be the case—I will venture to prophesy—*this* society will never regain its lost ground. Some other future philosophical society, better modelled, and composed of more zealous members, may rise into notice, and become useful: but this society will sink into oblivion.

I hope we are yet at a considerable distance
from

from such disgrace; but as I apprehend we are rather verging towards it, my concern would not suffer me to withhold this warning.

To prove that my fears are not altogether without foundation, I appeal to three notorious circumstances; our shameful neglect of the stated meetings of the society, the great scarcity of philosophical communications, and the tenor and complexion of our book of minutes.

NEVER was there an æra in which philosophical pursuits were more encouraged, or pushed with more success, than the present. The discoveries which have been made in every part of Europe, are most interesting and important. Some have contrived means to separate the different kinds of air, compounded in bodies, and to investigate and prove experimentally their respective properties: others have plunged, as it were, into the element of fire, to search out its subtle powers, and develop that great secret of nature, the generation of animal heat: some are pursuing electrical experiments, with the most promising assiduity: others are adding new worlds to our system: and others, on principles hitherto undiscovered, send up the vast balloon, and float in regions deemed inaccessible to man.

THE door to knowledge seems to be wider open than ever it was: the authority of the schools is daily giving way to the authority of nature. It is now perceived, that it is not absolutely *necessary* that a man should be what is called *learned* in order to be a philosopher. A judicious and careful examination of the phenomena of nature, and experiments, simple and easily made, may, and often do, lead the attentive enquirer to most important discoveries; even without any knowledge of what are called the learned languages, or of the systematical doctrines of the schools.

MANY, I am persuaded, have suppressed strong inclinations for experimental pursuits, from a notion that none can be a philosopher, or ought to meddle with philosophical enquiries, unless he has had what is generally called a *learned education*. The position is not true in reason or in fact:—it is not true in fact; for, many of the greatest advances in philosophical knowledge have been made by men not eminent for their learning: and many of the most useful improvements in mechanics have been produced by men of the most scanty education. That deservedly and universally admired philosopher the worthy president of this society,*
made

* Dr. Franklin.

made some of his most important discoveries before he had acquired any considerable knowledge in school learning; for he had not a liberal education on his youth. The position is not true in reason; for the language of nature is not written in Hebrew or Greek; the understanding thereof is not involved in the contemptible quirks of logic, nor wrapt in the visionary clouds of metaphysical hypothesis. The great book of nature is open to all—all may read therein—and who can read and understand, without worshipping the God of nature, who thus manifests himself in the simplicity and power of his works?

THE idolatrous veneration heretofore paid to the theoretical philosophy of those sages, who derive half their reputation from the gross ignorance of the ages in which they lived, is now in a great measure done away: men begin, without fear of condemnation, to lay aside faith in philosophy, and bring doctrines to the test of fact. The impenetrable mysteries and supernatural influences of chymistry have vanished with the smoke of the furnace, and we see that chymical processes are governed by the unalterable mechanical laws of nature, which want nothing but fair investigation to be understood. The fatal fabric of systematical physics—that slaughter-house of one-fourth part of the
human

human species, is now falling to ruin. The modern physician simplifies his practice, by attending to nature and fact, and following their indications in preference to the dictates of *Galen*. In a word, men do not now, as heretofore, act peremptorily on what may appear to be reason; but reason cautiously on what appears to be fact: and this must surely be the right and safe road to the knowledge of truth.

WHAT a glorious æra for the advancement of true philosophy! The road to knowledge laid open, and the fashion of the times leading into it.

IN the midst of such advantageous circumstances, shall I again ask the mortifying question—What are we doing?—I avoid the answer—I would not offend—my design is only to rouse the society from that state of supineness and lethargy into which it seems to have fallen, and to stimulate its members to a more active attention.

OUR deficiency, I am confident, is not owing to a want of men of strong natural abilities, or a sufficiency of acquired learning amongst us. America hath been noted for the sagacity of her citizens. The very climate is favourable to the production of genius; and the uncultivated abilities of the
lowest

lowest class of the natives of this country, seem to be as keen and discerning as those of any country whatever. Our deficiency, then, must be owing merely to a want of attention, which, in our situation, is unpardonable.

BUT, as I have presumed to point at the evil, it is but a reasonable expectation that I should also attempt to suggest a remedy. This I will readily do according to my ideas of what may be beneficial to the society.

IN the first place, I think it requisite that this corporation should have a building of its own, properly constructed for the accommodation of our library, natural curiosities, and philosophical apparatus, with a convenient hall for the meetings of the society, public orations, lectures, &c. To this building there should be annexed an observatory, a small chymical laboratory, and a botanical garden. To accomplish so great a design, the situation of our treasury is certainly far inadequate. A moderate revenue would serve all the purposes of the institution, if we were once provided with a building and apparatus ; to effect which, I know of no way, but that of a general subscription, and an application to the legislature for some assistance. This once accomplished, our annual income might be

augmented, by obliging every new member (honorary members in distant countries excepted) to pay *eight dollars* for his certificate, and to sign an obligation to contribute *twenty shillings* per annum, to the support of the funds ;* and to be prohibited from voting, or being voted for to any office, unless all arrears be paid up : and if any member should refuse or neglect to pay his annual subscription for three years successively, it should be deemed a voluntary withdrawing himself from the society, unless in case of absence from the country beyond sea, or other manifestly reasonable excuse.

I would propose, that in the election of counsellors, particular respect should be had to choose such as would probably duly attend the stated meetings of the society ; and that the counsellors so chosen, should understand, that however other members may be at liberty to attend or not, as inclination or convenience may permit, it will be expected of them, that *they* shall regularly assemble at the stated times for promoting the purposes of the institution ; and, therefore, they shall be noticed by written or printed tickets, at least twelve hours before the time of meeting.

THIS

* At this time new members paid nothing on their election, and the annual subscription was only ten shillings from the members, and that far from being punctually paid.

THIS particular notice, however, should not imply the exclusion of any other member or members, summoned only by public advertisement, who may choose to attend.

THE counsellors, besides the stated meetings, may hold meetings on their own adjournments, or may call themselves together, whenever it shall be thought necessary; but shall do nothing decisive concerning the society, in their own adjourned meetings, but only digest and plan mere matters of business, to be recommended and determined upon at the next stated meeting of the society.

My object herein is, that all matters of business, being duly considered and prepared, the attention of the society may not be too much engaged in matters of little importance to philosophy; so that the conversations at the stated meetings, may be mostly employed in philosophical subjects with as little interruption as possible.

BUT above all, and as a principal object, I would recommend that at every stated meeting of the society, or at least as often as may be convenient, one or more philosophical experiments should actually be exhibited. The particular experiment to be determined upon at the preceding meeting, in

A a

order

order that the curators, whose special duty it should be, may provide the requisites, and see that the necessary apparatus be in order for the purpose: and if any experiment be suggested by a member, it shall be performed at the expence of the treasury, provided a majority of members present when it is proposed shall so determine: and every experiment made, with the view in making it, and the final result should be fully recorded in a book to be kept for that purpose.

SUCH are the outlines of a reform, which I think would remedy the evils complained of—and for the following reasons:—first, as to the neglect in attending the meetings of the society. The exhibition of curious, and sometimes new experiments, with the conversations and reasonings which such experiments would naturally occasion, must, I think, unavoidably engage the attention of many who now absent themselves for want of inducements of entertainment or instruction. Secondly, the scarcity of philosophical communications: this would also probably be remedied, as the seeing experiments performed, and the possessing convenient opportunities of bringing conceived truths to the test of fact, would incite and produce essays on many useful and curious points, which now live only in idea, and die in neglect. And, thirdly,

our

our book of minutes would shew that they record the proceedings of a philosophical society.

To conclude, I wish this address may be considered as preparatory to a motion I shall now make—which is—

“ THAT a committee may be appointed to take into consideration the constitution, laws, and regulations of the society ; and to propose such alterations, amendments, and additions thereto, as they may think most likely to advance this society, and promote the good purposes for which it was instituted ; and that the said committee propose the most promising means by which a building, and a complete philosophical apparatus, may be procured ; and report at the next meeting, or as soon as may be convenient.”

A C C O U N T

OF A

W O R M IN A H O R S E'S E Y E.

(Read in the Philosophical Society, Sept. 26, 1783.)

HAVING been myself a witness to the following curious fact, I thought it should not pass unrecorded, especially as it occurred in this city; under the immediate notice of the philosophical society.

A report prevailed last summer, that a horse was to be seen, which had a living serpent in one of his eyes. At first I disregarded this report; but several of my acquaintance, who had been to see the horse, confirming the account, I had the curiosity to go myself, taking a friend along with me.

THE horse was kept in Arch-street, and belonged to a free negro. I examined the eye with all the attention in my power, being no ways disposed to credit the common report, but rather expecting
to

to detect a fraud or vulgar prejudice ; but was much surpris'd to see a real living worm within the ball of the horse's eye. This worm was of a clear white colour, in size and appearance much like a piece of white bobbin ; it seem'd to be from 2 $\frac{1}{2}$ to 3 inches in length, which, however, could not be exactly ascertained, its whole length never appearing at one time, but only such a portion thereof as could be seen through the iris, which was greatly dilated. The creature was in a constant, lively, vermicular motion, sometimes retiring so deep in the eye as not to be seen at all, and at other times approaching so near to the iris as to become plainly and distinctly seen ; at least so much of it as was within the field of the iris. I could not distinguish its head, neither end being perfectly exhibited whilst I view'd it ; and, indeed, its motion was so brisk and constant as not to admit of so nice an examination.

THE horse's eye was exceedingly inflamed, swoln, and running ; I mean the muscles contiguous to the eye-ball, and he seem'd to be in great pain ; so that it was with difficulty the eye could be kept open for more than a few seconds at a time : and I was oblig'd to watch favourable moments for a distinct view of this tormentor.

I believe the horse was quite blind in that eye, for it appeared as if all the humours were confounded together, and that the worm had the whole orb to range in; which, however, was not of a diameter sufficient for the worm to extend to its full length, as far as I could discover. The humours of the eye were beginning to grow opake, like a chilled jelly, and soon afterwards became altogether so, as I was informed.

As this is an uncommon circumstance, and may affect some philosophical doctrines, it is much to be lamented, that the horse had not been purchased, and the eye dissected for better examination.

THAT there was a living, self-moving worm in the ball of this horse's eye, free from all deception or mistake, I am most confident. How this worm got there, or (if bred in so remarkable a place) where its parents came from, or how they contrived to deposit their semen, or convey their egg into the eye of an horse, I leave for others to determine.

AN OPTICAL PROBLEM,
 PROPOSED TO MR. RITTENHOUSE, AND SOLVED BY HIM.

Philadelphia, March 16, 1785.

DEAR SIR,

I TAKE liberty of requesting your attention to the following problem in *optics*. It is, I believe, entirely new, and the solution will afford amusement to you, and instruction to me.

SITTING at my door one evening last summer, I took a silk handkerchief from my pocket, and stretching a portion of it lightly between my two hands, I held it before my face, and viewed through the handkerchief one of the street lamps, which was about one hundred yards distant, expecting to see the threads of the handkerchief much magnified. Agreeably to my expectation, I observed the threads were magnified to the size of coarse wires ; but was much surprised to find, that although I moved the handkerchief to the right and left before my eyes, the dark bars did not seem to move at all ; but remained permanent
 before

before the eye. If the dark bars were occasioned by the interposition of the magnified threads between the eye and the flame of the lamp, I supposed that they would move and succeed each other as the threads were made to move and pass in succession before the eye; but the fact was otherwise.

To account for this phenomenon, exceeds my skill in optics. You will be so good as to make the experiment; and if you find the case truly stated, as I doubt not you will I shall be much obliged by a solution on philosophical principles.

I am, Sir, with all sincerity

Your affectionate friend,

And very humble servant,

FRANCIS HOPKINSON.

David Rittenhouse, Esq.

MR.

before the eye. If the dark bars were occasioned by the interposition of the magnified threads between the eye and the flame of the lamp, I supposed that they would move and succeed each other as the threads were made to move and pass in succession before the eye ; but the fact was otherwise.

To account for this phenomenon, exceeds my skill in optics. You will be so good as to make the experiment ; and if you find the case truly stated, as I doubt not you will I shall be much obliged by a solution on philosophical principles.

I am, Sir, with all sincerity

Your affectionate friend,

And very humble servant,

FRANCIS HOPKINSON.

David Rittenhouse, Esq.

MR.

Fig. 1.



Fig. 2.

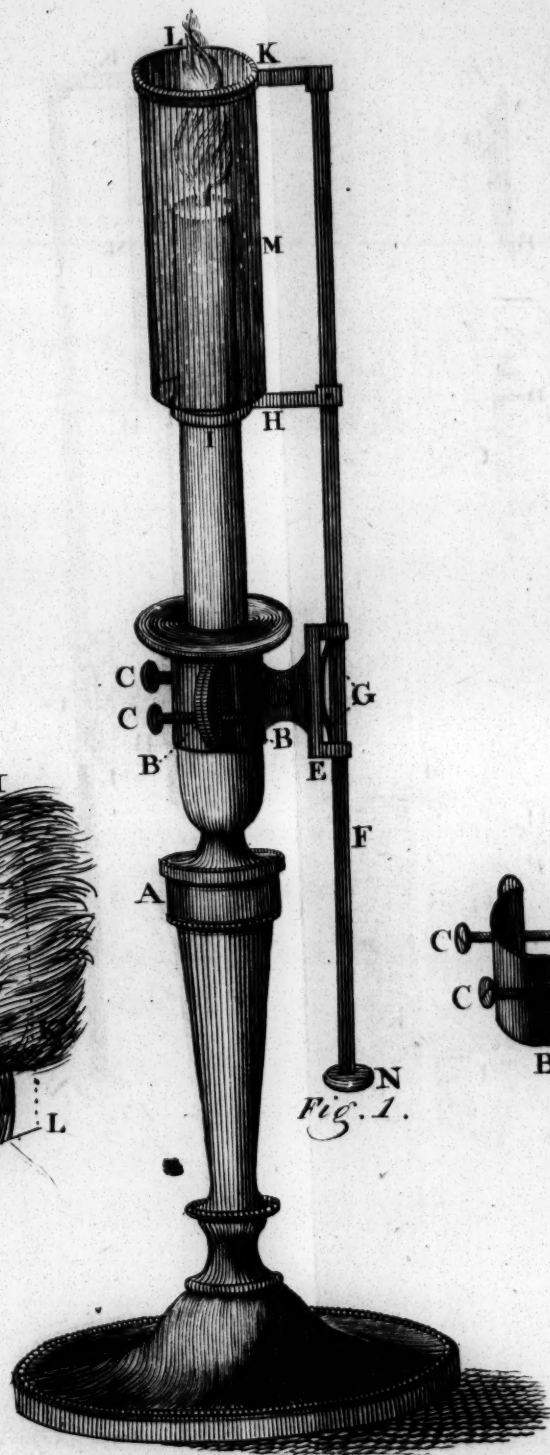
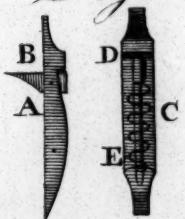


Fig. 1.

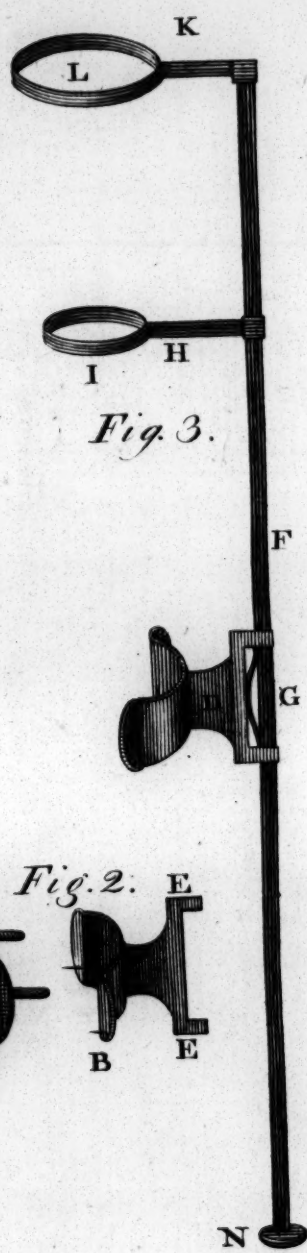
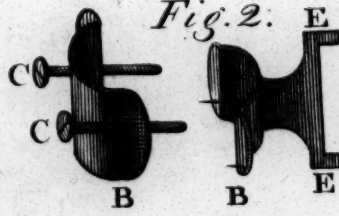
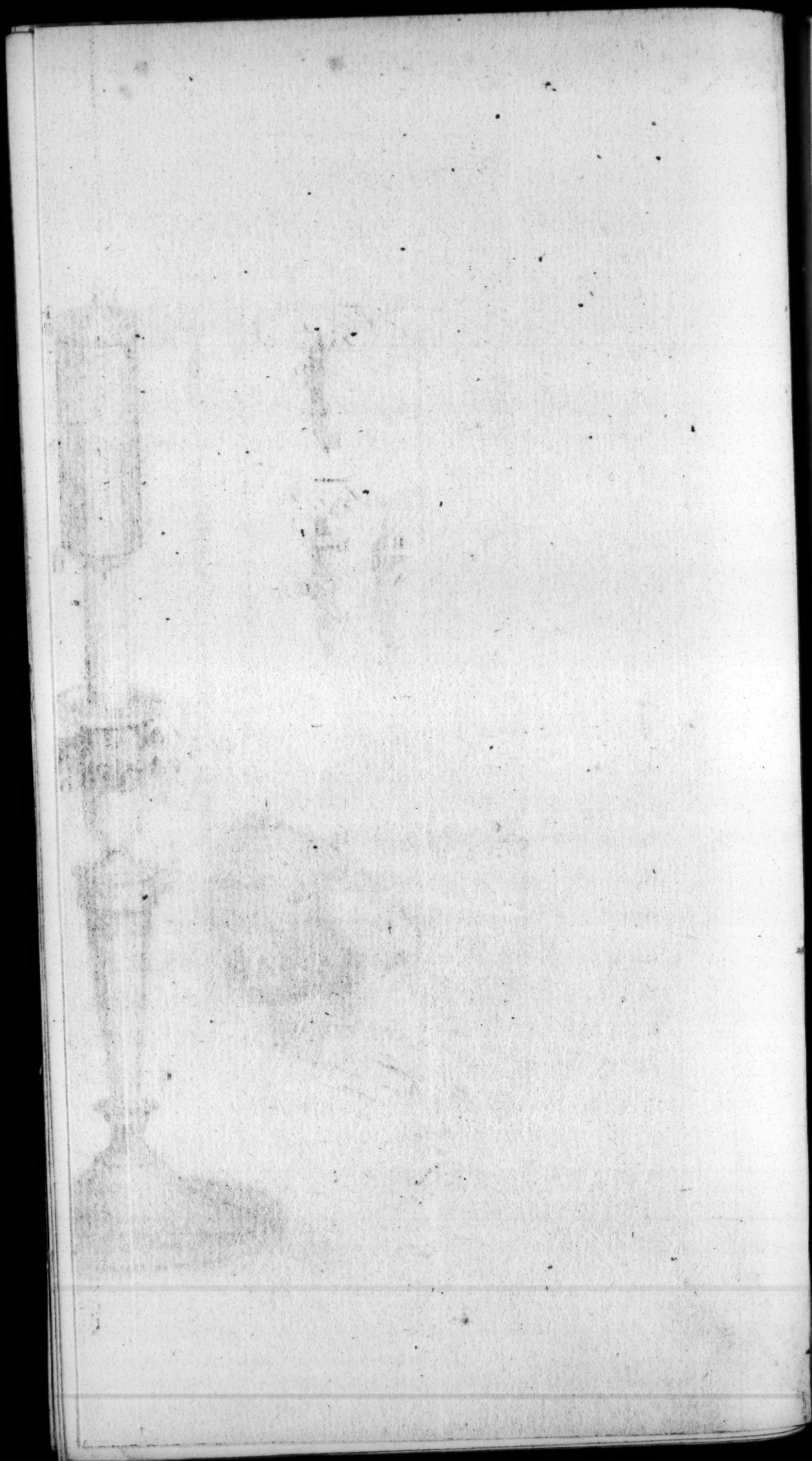


Fig. 3.

Fig. 2.





MR. RITTENHOUSE'S ANSWER.

DEAR SIR,

THE experiment you mention with a silk handkerchief, and the distant flame of a lamp, is much more curious than one would at first imagine. For the object we see is not the web of the handkerchief magnified, but something very different, as appears from the following considerations.

1st. A distinct image of any object placed close to the eye, cannot be formed by parallel rays or such as issue from a distant luminous point; for all such rays passing through the pupil, will be collected at the bottom of the eye, and there form an image of the luminous point. The threads of the handkerchief would only intercept part of the rays, and render the image less brilliant.

2dly. If the cross bars we see were images of the silk threads, they must pass over the retina, whilst the threads are made to pass over the pupil;
but

but this, as you observe, does not happen for they continue stationary.

3dly. If the image on the retina was a picture of the object before the eye, it must be fine or coarse according to the texture of the handkerchief. But it does not change with changing the silk, nor does it change on removing it farther from the eye. And the number of the apparent threads remains the same, whether ten, twenty, or thirty of the silk threads pass across the pupil at the same time. The image we see must, therefore, be formed in some different manner; and this can be no other than by means of the *inflection* of light in passing near the surfaces of bodies as described by *Newton*.

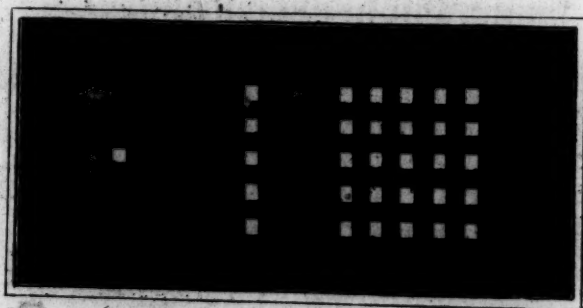
It is well known in optics, that different images, of the different points of objects without the eye, are formed on the retina by pencils of rays, which before they fall on the eye are inclined to each other in sensible angles: and the great use of telescopes is to encrease these angles regularly, in a certain ratio, suffering such rays as were parallel before they enter the telescope to proceed on parallel after passing through it. The extended image which we see in this experiment must therefore be formed by pencils of rays, which be-

2

fore

fore they entered the eye, had very considerable degrees of inclination with respect to each other. But coming from a small distant flame of a lamp, they were nearly parallel before they passed through the silk handkerchief. It was therefore the threads of silk which gave them such different directions.

BEFORE the silk is placed to the eye, parallel rays of light will form a single lucid spot as at A



in the figure, and this spot will still be formed afterwards by such rays as pass through the little meshes uninfluenced by the threads. But suppose the perpendicular threads by their action on the rays to bend a part of them one degree to the right and left, another part two degrees ; there will now be four images formed, two on each side of the original one at A. By a similar action of the horizontal threads, this line of five lucid spots will be divided

ed into five other lines, two above and two below, making a square of 25 bright spots, separated by four perpendicular dark lines and four horizontal ones ; and these lucid spots and dark lines will not change their places on moving the web of silk over the eye, parallel to any of its threads. For the point of the retina on which the image shall fall, is determined by the incidence of the rays with respect to the axis of the eye, and not by the part of the pupil through which they pass.

IN order to make my experiments with more accuracy, I made a square of parallel hairs about half an inch each way ; and to have them nearly parallel and equidistant, I got a watch maker to cut a very fine screw on two peices of small brass wire. In the threads of these screws, 106 of which made one inch, the hairs were laid, 50 or 60 in number. Looking thro' these hairs at a small opening in the window shutter of a dark room, 1-30th of an inch wide and three inches long, holding the hairs parallel to the slit, and looking towards the sky, I saw three parallel lines, almost equal in brightness, and on each side, four or five much fainter, and growing more faint coloured and indistinct the further they were from the middle line,

which

which I knew to be formed of such rays as pass between the hairs, uninfluenced by them.

THINKING my apparatus not so perfect as it might be, I took out the hairs, and put in others, something thicker; of these 190 made one inch, and therefore the spaces between them were about the $1\text{-}250^{\text{th}}$ part of an inch. The three middle lines of light were now not so bright as they had been before, and the others were stronger and more distinct; and I could count six on each side of the middle line seeming to be equally distant from each other, estimating the distance from the centre of one to the centre of the next. The middle line was still well defined and colourless, the next two were likewise pretty well defined, but something broader, having their inner edges tinged with blue, and their outer edges with red: the others were more indistinct, and consisted each of the prismatic colours, in the same order, which, by spreading more and more, seemed to touch each other at the fifth or sixth line, but those nearest the middle were separated from each other by very dark lines, much broader than the bright lines.

FINDING the beam of light which came through the window-shutter divided into so many distinct pencils,

pencils, I was desirous of knowing the angles which they made with each other. For this purpose I made use of a small prismatic telescope and micrometer, with which I was favoured by *Dr Franklin*. I fastened the frame of parallel hairs before the object glass, so as to cover its aperture entirely: then looking through the telescope, I measured the space between the two first side lines, and found the angular distance between their inner edges to be $13' 15''$; from the middle of one to the middle of the other $15' 30''$; and from the outer edge of one to the outer edge of the other $17' 45''$. In the first case, I had a fine blue streak in the middle of the object, and in the last a red streak. The other lines were too faint, when seen through the telescope to measure the angles they subtended with accuracy; but from such trials as I made, I am satisfied, that from the second line on one side, to the second on the other side, and so on, they were double, triple, quadruple, &c. of the first angles.

It appears then, that a very considerable portion of the beam of light passed between the hairs without being at all bent out of its course; that another smaller portion was bent, at a medium, about $7' 45''$ each way; the red rays a little more, and the blue rays a little less; another still smaller portion

tion $15' 30''$; another $23' 15''$, and so on. But that no light, or next to none, was bent in any angle less than $6'$, nor any light of any particular colour in any intermediate angle between those which arise from doubling, tripling, &c. of the angle in which it is bent in the first side lines.

I was surpris'd to find that the red rays are more bent out of their first direction, and the blue rays less, as if the hairs acted with more force on the red than on the blue rays; contrary to what happens by refraction, when light passes obliquely through the common surface of two different mediums. It is, however, consonant to what sir *Isaac Newton* observes with respect to the fringes that border the shadows of hairs and other bodies; his words are—"And, therefore, the hair, in causing these
 " fringes, acted alike upon the red light, or least
 " refrangible rays, at a greater distance, and upon
 " the violet or most refrangible rays, at a less distance; and by those actions disposed the red
 " light into larger fringes, and the violet into smaller fringes."

By pursuing these experiments, it is probable that new and interesting discoveries may be made respecting the properties of this wonderful substance, *light*, which animates all nature in the eyes
 of

of man, and perhaps, above all things, disposes him to acknowledge the Creator's bounty. But want of leisure obliges me to quit the subject for the present.

I am, dear sir,

your affectionate friend,

and very humble servant,

DAVID RITTENHOUSE.

Vide Am. Phil. Transact. Vol. II. p. 201.

END OF VOLUME FIRST.



